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BRITISH NORTH AMERICA ACTS
AND SELECTED STATUTES

1867-1948



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BRITISH NORTH AMERICA ACT AND AMENDMENTS

(TOGETHER WITH PRE-CONFEDERATION STATUTES AND DOCUMENTS, A SHORT HISTORICAL REVIEW, A CHAPTER ON RESPONSIBLE GOVERNMENT AND A CHAPTER ON THE YEARS PRECEDING CONFEDERATION; TOGETHER ALSO WITH MANY ACTS AND ORDERS IN COUNCIL RELATING TO CANADA AND ITS PROVINCES; TO WHICH HAS BEEN ADDED A NEW PART CONTAINING THE LETTERS PATENT CONSTITUTING THE OFFICE OF GOVERNOR GENERAL OF CANADA WITH APPENDICES AND ABUNDANT NOTES.)

1867-1948



OTTAWA
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KING'S PRINTER AND CONTROLLER OF STATIONERY
1948

NOTE

This is a new edition of the "British North America Acts and Amendments" published by the King's Printer in 1943. A new Part I has been added which contains an Historical Review from 1759 to 1867. In this Review will be found Extracts from the Capitulations, the Treaty of Paris, the Royal Proclamation of 1763, the Quebec Act, the Constitutional Act, 1791 and the Union Act, 1840. In this year of the centenary of the establishment of Responsible Government in Canada a number of pages are given to a study of the latter subject as well as to reviewing the years preceding Confederation with a summary of the main provisions of the British North America Act, 1867. At the end of Part I will be found also the Quebec and London resolutions which preceded the enactment of the British North America Act, 1867.

Part II contains the British North America Act 1867 as amended. The Statute Law Revision Acts of 1893 and 1927 are included among the Acts of the United Kingdom as well as the British North America Acts of 1871, 1886, 1907, 1915, 1916, 1927, 1930, 1940, 1943 and 1946. The Statute of Westminster, 1931, is reprinted with numerous and lengthy notes.

Part III contains Imperial Orders in Council, Part IV Acts of the Parliament of Canada which affect the relations of Canada and its provinces and Part V Canadian legislation relating to federal constitutional matters.

Part VI contains the Letters Patent constituting the office of Governor General of Canada with Appendices and abundant notes.

All this material has been brought together, selected and annotated by Dr. Maurice Ollivier, K.C., F.R.S.C., Joint Law Clerk of the House of Commons, for the convenience of parliamentarians, civil servants, and more specially for the benefit of students of the Canadian constitution.

EDMOND CLOUTIER,

King's Printer.

January 1st, 1949.

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PART I

HISTORICAL REVIEW

WITH PRE-CONFEDERATION
STATUTES AND DOCUMENTS

1759-1866

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HISTORICAL REVIEW WITH PRE-CONFEDERATION STATUTES AND DOCUMENTS

THE CAPITULATIONS AND THE MILITARY REGIME: 1759-1763

Canada became a colonial possession of Great Britain by the capitulations of Quebec (September 18, 1759) and of Montreal (September 8, 1760). ⁽¹⁾ By these proclamations, the inhabitants of the colony were given certain restricted privileges, amongst others, the free exercise of their religion and were submitted to a tolerant military regime. The Governor, whenever possible to do so, did not fail, to rule according to the laws and customs of the inhabitants.

It is unnecessary to transcribe in this book the articles of the Capitulations except the following:

Article 6 of the Capitulation of Quebec.

De Ramsay, the King's Lieutenant had demanded:

"6. That the exercise of the Catholic, Apostolic and Roman religion shall be maintained; and that safeguards shall be granted to the houses of the clergy and to the monasteries, particularly to his Lordship the Bishop of Quebec, who, animated with zeal for religion and charity for the people of his diocese desires to reside in it constantly, to exercise freely and with that decency which his character and the sacred offices of the Roman religion require, his episcopal authority in the town of Quebec, whenever he shall think proper, until the possession of Canada shall be decided by a treaty between their most Christian and Britannic Majesties."

The demand was granted in the following terms:

"The free exercise of the Roman religion is granted; likewise safeguards to all religious persons, as well as to the Bishop, who shall be at liberty to come and exercise, freely and with decency, the functions of his office, whenever he shall think proper, until the possession of Canada shall have been decided between their Britannic and Most Christian Majesties."

In the Capitulation of Montreal.

Article 27, as proposed and as accepted read as follows:—

(a) AS PROPOSED—

"27. The free exercise of the Catholic, Apostolic and Roman religion shall subsist entire, in such manner that all the states and the people of the towns and countries, places and distant posts, shall continue to assemble in the churches and to frequent the sacraments as heretofore, without being molested in any manner, directly or indirectly. These people shall be obliged by the English government to pay their priests the tithes and all the taxes they were used to pay under the government of His Most Christian Majesty."

(b) AS GRANTED—

"Granted as to the free exercise of their religion; the obligation of paying the tithes to the priests will depend on the King's pleasure."

⁽¹⁾ "French colonial possessions on the North American continent only gradually passed under the British flag and the introduction of British institutions was equally gradual. (Nova Scotia in 1713, Cape Breton in 1758, Citadel and district of Quebec in 1759, the remaining French possessions in 1760)", W. P. M. Kennedy. *The Constitution of Canada, 1534-1937*, p. 25.

Article 28 was granted as proposed, viz.—

“28. The Chapter, priests, curates and Missionaries shall continue, with an entire liberty, their exercise and functions of cures in the parishes of the towns and countries.”

“All the communities, and all the priests, shall preserve their moveables, the property and revenues of the Seignories and other estates which they possess in the colony of what nature soever they be; and the same estates shall be preserved in their privileges, rights, honours and exemptions.”

Article 37 (which was granted as to the property of companies and private persons, but subject so that if the French Sovereign “has any share in it, that must become the property of the King” of Great Britain), was as follows:—

“37. The Lords of Manors, the Military and Civil Officers, the Canadians as well in the towns as in the country, the French, settled or trading in the whole extent of the colony of Canada, and all other persons whatsoever, shall preserve the entire peaceable property and possession of the goods, noble and ignoble moveable and immoveable, merchandises, furs, and other effects, even their ships; they shall not be touched, nor the least damage done to them, on any pretence whatever. They shall have liberty to keep, let or sell them, as well to the French as to the British; to take away the produce of them in bills of exchange, furs, specie or other returns, whenever they shall judge proper to go to France, paying their freights, as in the twenty-sixth Article” (viz. ‘on the same footing as the British would pay it’). “They shall also have the furs which are in the posts above, and which belong to them, and may be on the way to Montreal; and for this purpose they shall have leave to send, this year or the next, canoes fitted out to fetch such of the said furs as shall have remained in those posts.”

Article 41, was proposed as follows:—

“41. The French, Canadians and Acadians, of what state and condition soever, who shall remain in the colony, shall not be forced to take arms against his Most Christian Majesty or his allies, directly or indirectly, on any occasion whatsoever; the British Government shall only require of them an exact neutrality.”

The proposal was answered as follows:—

“They become subjects of the King.”

Article 42, was proposed as follows:—

“42. The French and Canadians shall continue to be governed according to the custom of Paris and the laws and usages established for this country, and they shall not be subject to any imposts than those which were established under the French Dominions.”

The proposal was answered as follows:—

“Answered by the preceding articles, and particularly by the last.” (The answers to ‘the preceding articles’ are these—To Article 38—‘The King is to dispose of his ancient subjects’; (the Acadians) ‘in the meantime they shall enjoy the same privileges as the Canadians,’ and Article 41—‘They become the subjects of the King.’ In the result, therefore, the future legal system of Canada was left where by English law it was,—in the hands of the conquering sovereign of England, to leave it as he found it or to change it at his will, but so that at least with relation to matters as between subject and subject, the ancient laws of the colony continued to apply to the King’s new British subjects until the King’s will with respect to them should be expressed.)

Article 46 was proposed and granted as follows:—

“46. The inhabitants and merchants shall enjoy all the privileges of trade, under the same favours and conditions granted to the subjects of His Britannic Majesty, as well in the countries above as the interior of the colony.”

THE TREATY OF PARIS

(February 10th, 1763)

By the Peace Treaty which was signed at the conclusion of the Seven Years' War the French possessions of North America were formally ceded to Great Britain. The Treaty which was concluded between His Britannic Majesty, the King of France and the King of Spain confirmed in Article 4 the liberty of the Catholic religion and the rights of the inhabitants as to their property.

"4. His Most Christian Majesty renounces all pretensions which he has heretofore formed or might have formed to Nova Scotia or Acadie in all its parts and guaranties the whole to it, and with all its dependencies, to the King of Great Britain: Moreover, his Most Christian Majesty cedes and guaranties to his said Britannick Majesty, in full right, Canada, with all its dependencies, as well as the Island of Cape Breton and all the other islands and coasts in the gulph and river of St. Lawrence, and, in general, everything that depends on the said countries, lands, islands and coasts, with the sovereignty, property, possession and all rights acquired by treaty or otherwise, which the Most Christian King and the Crown of France have had till now over the said countries, lands, islands, places, coasts and their inhabitants. . . . His Britannick Majesty on his side, agrees to grant the liberty of the Catholick religion to the inhabitants of Canada: he will in consequence give the most precise and most effectual orders that his new Roman Catholick subjects may profess the worship of their religion according to the rites of the Romish Church, as far as the laws of Great Britain permit. His Britannick Majesty farther agrees, that the French inhabitants or other who had been subjects of the Most Christian King in Canada, may retire with all safety and Freedom whenever they shall think proper, and may sell their estates, provided it be to the subjects of his Britannick Majesty, and bring away their effects as well as their persons without being restrained in their emigration, under any pretence whatsoever, except that of debts or of criminal prosecutions. The term limited for this emigration shall be fixed to the space of eighteen months, to be computed from the day of the exchange of the ratification of the present treaty."⁽²⁾

THE ROYAL PROCLAMATION

(7th October, 1763)

This Proclamation which abolished French law in Canada "gave Quebec its first civil government under British rule"⁽³⁾ It established four new distinct and separate Governments of which only one was in Canada, that of Quebec."⁽⁴⁾ The proclamation further refers to an administrative outline as follows:

"And whereas it will greatly contribute to the speedy settling our said new Governments, that our loving subjects should be informed of our Paternal care, for the security of the Liberties and Properties of those who are and shall become Inhabitants thereof, We have thought fit to publish and declare, by this Our Proclamation, that We have, in the Letters Patent under our Great Seal of Great Britain, by which

⁽²⁾ By Article 20 of the same treaty the King of France cedes and guarantees in full right to his Britannic Majesty "Florida with Fort St. Augustin and the Bay of Pensacola, as well as all that Spain possesses on the continent of North America to the East or to the South East of the River Mississippi." His Britannic Majesty agrees, on his side, in precisely the same terms as those of Article 4, to grant to the inhabitants of the countries so ceded the liberty of the Catholic religion and precisely the same rights as to their property and as to their removal.

⁽³⁾ Kennedy, *The Constitution of Canada*, p. 33.

⁽⁴⁾ The proclamation recites the fact of the annexation of the Islands of St.-John's and Cape Breton (or Isle Royale) to the Government of Nova Scotia.

the said Governments are constituted, given express Power and Direction to our Governors of our Said Colonies respectively, that so soon as the state and circumstances of the said Colonies will admit thereof, they shall, with the Advice and Consent of the Members of our Council, summon and call General Assemblies within the said Governments respectively, in such Manner and Form as is used and directed in those Colonies and Provinces in America which are under our immediate Government; and We have also given Power to the said Governors, with the consent of our Said Councils, and the Representatives of the People, so to be summoned as aforesaid, to make, constitute, and ordain Laws, Statutes, and Ordinances for the Public Peace, Welfare and good Government of our said Colonies, and of the People and Inhabitants thereof, as near as may be agreeable to the Laws of England, and under such Regulations and restrictions as are used in other Colonies; and in the mean time, and until such Assemblies can be called as aforesaid, all Persons Inhabiting in or resorting to our Said Colonies may confide in our Royal Protection for the Enjoyment of the Benefit of the Laws of our Realm of England; for which Purpose We have given Power under our Great Seal to the Governors of our said Colonies respectively to erect and constitute, with the Advice of our said Councils respectively, Courts of Judicature and public Justice within our said Colonies for hearing and determining all Causes, as well Criminal as Civil, according to Law and Equity, and as near as may be agreeable to the Laws of England, with Liberty to all Persons who may think themselves aggrieved by the Sentences of such Courts, in all Civil Cases, to appeal, under the usual Limitations and Restrictions, to Us in our Privy Council.”⁽⁵⁾

“The doctrine recognized and admitted at that period is better summarized by an eminent constitutional authority⁽⁶⁾ who writes:

“As the conqueror was not bound in international law even to spare the lives of those who were overcome by him, so he need not accord them any civil rights whatever, and what he did accord was his to grant and to take away. Thence followed the doctrine that the Crown has uncontrolled legislative authority over the conquered or ceded Colony.”

The application of the above principles had caused the Proclamation not only to substitute the common law of England to the *Coutume de Paris*, which had been in force in the Colony but also to create courts where English was to be the only official language. The Royal Instructions to Governor Murray which followed two months later instructed him to nominate and establish a Council which was to meet when deemed necessary and expedient and on the advice of the Council to summon and call a General Assembly.

As the members of the Council and assembly had to subscribe the Declaration in the “Act for preventing Dangers which may happen from Popish Recusants” no Assembly was called during that period. This however had been expected and explained the following contradictions in the Instructions.

“11. And whereas it is directed, by Our Commission to You under Our Great Seal, that so soon as the Situation and Circumstances of Our said Province will admit thereof, you shall, with the Advice of Our

⁽⁵⁾ It was most unfortunate for the Colony of Quebec, that weak, ignorant, and interested Men, were sent over to carry the Proclamation into Execution, who expounded it in the most absurd Manner, oppressive and cruel to the last Degree to the Subjects, and entirely contrary to the Royal Intention. (The Earl of Hillsborough, Secretary of State for the Colonies, to Carleton, March 6th, 1768.)

⁽⁶⁾ Keith, *Responsible Government in the Dominions*, Vol. 1, p. 2.

Council, summon and call a General Assembly of the Freeholders in Our said Province; You are therefore, as soon as the more pressing Affairs of Government will allow to give all possible attention to the carrying this important Object into Execution: But, as it may be impracticable for the present to form such an Establishment, You are in the mean time to make such Rules and Regulations, by the Advice of Our said Council, as shall appear to be necessary for the Peace, Order and good Government of Our said Province”.

“28. And whereas We have stipulated, by the late Definitive Treaty of Peace concluded at Paris the 10th Day of February, 1763, to grant the Liberty of the Catholick Religion to the Inhabitants of Canada, and that We will consequently give the most precise and most effectual Orders, that Our new Roman Catholick Subjects in that Province may profess the Worship of their Religion, according to the Rites of the Romish Church, as far as the Laws of Great Britain permit; It is therefore Our will and Pleasure, that you do, in all things regarding the said Inhabitants, conform with great Exactness to the Stipulations of the said Treaty in this respect.

“29. You are, as soon as possible, to summon the Inhabitants to meet together, at such Time or Times, Place or Places, as you shall find most convenient, in order to take the Oath of Allegiance, and make and subscribe the Declaration of Abjuration mentioned in the aforesaid Act passed in the first Year of the Reign of King George the First, for the further Security of His Majesty’s Person and Government, and the Succession of the Crown in the Heirs of the Late Princess Sophia, being Protestants, and for extinguishing the Hopes of the Pretended Prince of Wales, and his open and secret Abettors; which Oath shall be administered to them by such Person or Persons as you shall commissionate for such Purpose; and in case any of the said French Inhabitants shall refuse to take the said Oath, and make and subscribe the Declaration of Abjuration, as aforesaid, You are to cause them forthwith to depart out of Our said Government.”⁽⁷⁾

The civil government instituted by the Royal Proclamation of 1763 and confirmed by Murray’s instructions in the same year was not very satisfactory. As stated eleven years later when the Quebec Act was passed by the Imperial House of Commons: “If the proclamation is to be considered as importing English laws into a country already settled, I take it to be an act of the grossest and absurdest and cruellest tyranny that a conquering nation ever practised over a conquered country. Look back to every page of history, and I defy you to produce a single instance in which a conqueror attempted to take away from a conquered province, by one rough stroke, the whole of their constitution.”

The Law Officers of the Crown in England had been of the same opinion in 1766 when they reported that it seemed an absurdity to attempt the administration of justice in Canada

⁽⁷⁾ In 1766 the Lords of the Committee of Council for Plantation Affairs secured the joint advice of the Attorney-General and the Solicitor General concerning the Civil Government of Quebec. It was evident, the latter reported, that there were two principal sources of disorder. One was the attempt to administer justice without the aid of the Canadians in an unknown tongue, with neither Canadian advocates nor Canadian jurors, even in causes between Canadians only, nor judges conversant with the French language. The second source of disorder was:

“the alarm taken at the construction put upon His Majesty’s Proclamation of October 7th, 1763. As if it were His Royal Intentions by His Judges and Officers in that country at once to abolish all the usages and customs of Canada, with the rough hand of the conqueror rather than with the true spirit of a lawful Sovereign, and not so much as to extend the protection and Benefit of His English Laws to his new subjects, by securing their Lives, Liberty and Properties with more certainty than in former times, as to impose new, unnecessary and arbitrary Rules, especially in the Titles to Land, and in the modes of Descent, Alienation, and Settlement, which tend to confound and subvert rights instead of supporting them.” (W. F. O’Connor—*Report to the Speaker of the Senate by the Parliamentary Counsel, etc.*”, pages 10 and 11 of Annex 4.)

in an unknown tongue and without the aid of Canadians and "at once to abolish all the usages and customs of Canada with the rough hand of the conqueror."

We have explained why no General assembly, as recommended by the Instructions to Governor Murray, was ever summoned during the period preceding the Quebec Act of 1774, which also explains the chaotic conditions in existence during the same period. The position was to be entirely changed by the adoption of the Quebec Act 1774.

THE QUEBEC ACT, 1774 (EXTRACTS)

And whereas the Provisions, made by the said Proclamation, in respect to the Civil Government of the said Province of Quebec, and the Powers and Authorities given to the Governor and other Civil Officers of the said Province, by the Grants and Commissions issued in consequence thereof, have been found, upon Experience to be inapplicable to the State and Circumstances of the said Province, the Inhabitants whereof amounted, at the Conquest, to above Sixty-five thousand Persons professing the Religion of the Church of Rome, and enjoying an established Form of Constitution and System of Laws, by which their Persons and Property have been protected, governed, and ordered, for a long Series of Years, from the first Establishment of the said Province of Canada; be it therefore further enacted by the Authority aforesaid, That the said Proclamation, so far as the same relates to the said Province of Quebec, and the Commission under the Authority whereof the Government of the said Province is at present administered, and all and every the Ordinance and Ordinances made by the Governor and Council of Quebec for the Time being, relative to the Civil Government and Administration of Justice in the said Province, and all Commissions to Judges and other Officers thereof, be, and the same are hereby revoked, annulled, and made void, from and after the First Day of May, One thousand seven hundred and seventy-five.⁽⁸⁾

And, for the more perfect Security and Ease of the Minds of the Inhabitants of the said Province, it is hereby declared, That His Majesty's Subjects, professing the Religion of the Church of Rome, of and in the said Province of Quebec, may have, hold, and enjoy, the free Exercise of the Religion of the Church of Rome, subject to the King's Supremacy, declared and established by an Act, made in the First Year of the Reign of Queen Elizabeth, over all the Dominions and Countries which then did, or thereafter should, belong to the Imperial Crown of this Realm; and that the Clergy of the said Church may hold, receive, and enjoy, their accustomed Dues and Rights, with respect to such Persons only as shall profess the said Religion.⁽⁹⁾

Provided always, and be it enacted, That no Person, professing the Religion of the Church of Rome, and residing in the said Province, shall be obliged to take the Oath required by the said Statute.⁽¹⁰⁾

And be it further enacted by the Authority aforesaid, That all His Majesty's Canadian Subjects, within the Province of Quebec, the religious Orders and Communities only excepted, may also hold and enjoy their Property and Possessions, together with all Customs and Usages relative thereto, and all other their Civil Rights, in as large, ample, and beneficial Manner, as if the said Proclamation, Commissions, Ordinances, and other Acts and Instruments had not been made, and as may consist with their Allegiance to His Majesty, and Subjection

⁽⁸⁾ This section had the effect of rendering null and void the former provisions of the civil laws of England which had been imposed by the proclamations of 1763 in violation of the terms of the capitulations.

⁽⁹⁾ This section authorized the inhabitants of Quebec to practise the Catholic religion subject to the King's supremacy and sanctioned the right of the Roman Catholic Clergy to impose and collect tithes.

⁽¹⁰⁾ This provision substituted for Roman Catholics a new form of Oath for the Test Oath previously imposed upon them.

to the Crown and Parliament of Great Britain; and that in all Matters of Controversy, relative to Property and Civil Rights, Resort shall be had to the Laws of Canada, as the Rule for the Decision of the same.⁽¹¹⁾

And whereas the Certainty and Lenity of the Criminal Law of England, and the Benefits and Advantages resulting from the use of it, have been sensibly felt by the Inhabitants, from an Experience of more than Nine Years, during which it has been uniformly administered; be it therefore further enacted by the Authority aforesaid, That the same shall continue to be administered, and shall be observed as Law in the Province of Quebec, as well in the Description and Quality of the Offence as in the Method of Prosecution and Trial.⁽¹²⁾

And whereas it may be necessary to ordain many Regulations for the future Welfare and good Government of the Province of Quebec, the Occasions of which cannot now be foreseen, nor, without much Delay and Inconvenience, be provided for, without intrusting that Authority, for a certain Time, and under proper Restrictions, to Persons resident there: And whereas it is at present inexpedient to call an Assembly; be it therefore enacted by the Authority aforesaid, That it shall and may be lawful for His Majesty, His Heirs and Successors, by Warrant under His or Their Signet or Sign Manual, and with the Advice of the Privy Council to constitute and appoint a Council for the Affairs of the Province of Quebec, to consist of such Persons resident there, not exceeding Twenty-three, nor less than Seventeen, as His Majesty, His Heirs and Successors, shall be pleased to appoint.⁽¹³⁾

The Quebec Act, although it did not institute responsible or even representative government was considered by Canadians as the first charter of their liberties and for their liberties and for this reason, as stated by Governor Haldimand, its passing prevented Canada from becoming a thirteenth state of the Union after the breaking out of hostilities between England and the American Colonies.⁽¹⁴⁾

We have seen, in the Extracts quoted above, the main provisions of the Act. These of course, although satisfactory on the whole to French-Canadians did not satisfy the United Empire Loyalists who were already clamouring for representative institutions.

Another effect of the Quebec Act was to extend the territory of the provinces to the frontiers of New-England, to Pennsylvania, to the province of New-York, then to the Ohio and to the left bank of the Mississippi and then to the territory of the Hudson Bay.

THE CONSTITUTIONAL ACT, 1791

The Act repeals so much of the Quebec Act, 1774.

“As in any manner relates to the appointment of a council for the affairs of the said province of Quebec, or to the power given by the said Act to the said council, or to the major part of them, to make ordinances for the peace, welfare and good government of the said province, with the consent of His Majesty’s Governor, Lieutenant-Governor, or Commander in Chief for the time being.”

⁽¹¹⁾ This section confirmed His Majesty’s Canadian Subjects in the enjoyment of their possessions and continued in existence the Canadian laws as to property.

⁽¹²⁾ Provides that the criminal law system shall be that of England.

⁽¹³⁾ Creates a Crown nominated Legislative Council with authority to make ordinances for the peace, order and welfare of the province.

⁽¹⁴⁾ See *Problems of Canadian Sovereignty* by Maurice Ollivier, at p. 13 et seq. (With permission of Canada Law Book Co. Toronto.)

Section II reads as follows:

"And whereas His Majesty has been pleased to signify, by his message to both Houses of Parliament, his Royal intention to divide his Province of Quebec into two separate Provinces, to be called the Province of Upper Canada and the Province of Lower Canada;⁽¹⁵⁾ Be it enacted by the authority aforesaid, that there shall be within each of the said Provinces respectively a Legislative Council and an Assembly, to be severally composed and constituted in the manner hereinafter described; and that in each of the said Provinces respectively, His Majesty, His Heirs, and Successors, shall have power during the continuance of this Act, by and with the advice and consent of the Legislative Council and Assembly of such Provinces respectively, to make laws for the peace, welfare and good Government thereof, such laws not being repugnant to this Act; and that all such laws being passed by the Legislative Council and Assembly of either of the said Provinces respectively, and assented to by His Majesty, His Heirs or Successors, or assented to in His Majesty's name by such person as His Majesty, His Heirs or Successors, shall from time to time appoint to be the Governor or Lieutenant-Governor of such Province, or by such person as His Majesty, His Heirs or Successors, shall from time to time appoint to administer the Government within the same, shall be, and the same are hereby declared to be, by virtue of and under this Act, valid and binding, to all intents and purposes whatever, within the Province in which the same shall have been so passed.⁽¹⁶⁾

Section XXXIII is as follows:

"And be it further enacted by the authority aforesaid, that all laws, statutes, and ordinances which shall be in force on the day to be fixed in the manner herein after directed for the commencement of this Act, within the said Provinces, or either of them, or in any part thereof respectively, shall remain and continue to be of the same force, authority, and effect in each of the said Provinces respectively as if this Act had not been made, and as if the said Province of Quebec had not been divided; except in so far as the same are expressly repealed or varied by this Act, or in so far as the same shall or may hereafter by virtue of and under the authority of this Act be repealed or varied by His Majesty, his heirs, or successors, by and with the consent of the Legislative Councils and Assemblies of the said Provinces respectively, or in so far as the same may be repealed or varied by such temporary laws or ordinances as may be made in the manner hereinafter specified".⁽¹⁷⁾

The years 1791 to 1840 cover the period of transition between the absolute regime and responsible government. It is the period of representative government. Even representative government however was granted reluctantly. In 1789 in a well known document of the Colonial Office it is noted that this is the first step which will lead eventually to complete political separation and to independence.

The document reads:

"The establishment of the separate and local Legislature in a distant province, under any form or model which can be adopted for the purpose, leads so evidently to habitual notions of a distinct interest, and to the existence of a virtual independence as to many of the most important points of Government, that it seems naturally to prepare the way for an entire separation whenever other circumstances shall bring it forward".

⁽¹⁵⁾ This intention was carried out by an order in council dated 24th August, 1791.

⁽¹⁶⁾ This section therefore provides for a Legislative Council and a Legislative Assembly to be constituted within each of the intended provinces, by whose advice His Majesty may make laws for the government of the province.

⁽¹⁷⁾ This section states that the laws in force at the commencement of the Act shall continue so until repealed or varied by the legislatures of each province.

The Constitutional Act of 1791 divided Canada into Upper and Lower Canada, giving to each separate parliamentary institutions as we have seen by section II quoted above. The governor had a right of veto and could give or withhold His Majesty's assent to bills or reserve them for His Majesty's pleasure. (section XXX).

In many ways, the imperial parliament constituted a central authority such as now devolves to the federal parliament. Thus it would impose and levy navigation and commercial dues between the provinces or between a province and a foreign country.

As to the civil servants they were all appointed by the Crown which naturally resulted in the creation of a very objectionable and irresponsible bureaucracy. After the troubles of 1837-38 which belong to history and need not be studied in this legal summary, Lord Durham was appointed by Royal Commission governor-general and high commissioner with instructions to report on the best form of government that should be granted to the colony.

The report is a remarkable document well known and often quoted. It will be sufficient for our purpose to state that Lord Durham had a broad vision of an autonomous country where liberty would create loyalty and where good-will, rather than force, would bring about peace. His conclusion was that responsible government should be granted to the Canadas: "I am of opinion, that the full establishment of responsible government can only be permanently secured by giving these Colonies an increased importance in the policies of the Empire."—"The Governor, as the representative of the Crown, should be instructed that he must carry on his government by heads of departments, in whom the united Legislature shall repose confidence, and that he must look for no support from home in any contest with the legislature, except on points involving strictly Imperial interests."⁽¹⁸⁾

THE UNION ACT, 1840

(3 and 4, Victoria, c. 35.)

An Act to re-unite the Provinces of Upper and Lower Canada, and for the government of Canada.

[23rd July, 1840]

It shall be lawful for Her Majesty, with the advice of her Privy Council, to declare, or to authorize the Governor-General of the said two Provinces of Upper and Lower Canada to declare by proclamation that the said Provinces shall form and be one Province under the name of the Province of Canada, and thenceforth the said Provinces shall constitute and be one Province under the name aforesaid upon, from and after the day so appointed, as aforesaid.

Declaration
of Union.

And be it enacted that from and after the reunion of the said two Provinces there shall be within the Province of Canada one Legislative Council and one assembly to be severally constituted and composed in the

Composition
and powers
of Legisla-
ture.

⁽¹⁸⁾ See *Problems of Canadian Sovereignty* by Maurice Ollivier, pages 16 to 24. (With permission of the Canada Law Book Company, Toronto).

manner hereinafter prescribed, which shall be called "The Legislative Council and Assembly of Canada;" and that within the Province of Canada her Majesty shall have power, by and with the advice and consent of the said Legislative Council and Assembly, to make laws for the peace, welfare, and good government of the Province of Canada.

Representa-
tives for
each
Province.

And be it enacted that in the Legislative Assembly of the Province of Canada, to be constituted as aforesaid, the parts of the said Province which now constitute the Provinces of Upper and Lower Canada respectively, shall, subject to the provisions hereinafter contained, be represented by an equal number of representatives to be elected for the places and in the manner hereinafter mentioned.

Place and
times of
holding
Parliament.

And be it enacted that it shall be lawful for the Governor of the Province of Canada for the time being to fix such place or places within any part of the Province of Canada, and such times for holding the first and every other session of the Legislative Council and Assembly of the said Province as he may think fit, such times and places to be afterwards changed or varied as the Governor may judge advisable and most consistent with general convenience and the public welfare, giving sufficient notice thereof; and also to prorogue the said Legislative Council and Assembly from time to time, and dissolve the same, by proclamation or otherwise, whenever he shall deem it expedient.

Duration of
Parliament.

And be it enacted that there shall be a session of the Legislative Council and Assembly of the Province of Canada once at least in every year, so that a period of twelve calendar months shall not intervene between the last sitting of the Legislative Council and Assembly in one session and the first sitting of the Legislative Council and Assembly in the next session; and that every Legislative Assembly of the said Province hereafter to be summoned and chosen shall continue for four years from the day of the return of the writs for choosing the same, and no longer, subject nevertheless to be sooner prorogued or dissolved by the Governor of the said Province.

Giving or
withholding
assent to
bills.

And be it enacted that whenever any bill which has been passed by the Legislative Council and Assembly of the Province of Canada shall be presented for her Majesty's assent to the Governor of the said Province, such Governor shall declare according to his discretion, but subject nevertheless to the provisions contained in this Act, and to such instructions as may from time to time be given in that behalf by her Majesty, her heirs or successors, that he assents to such bill in her Majesty's name, or that he withholds her Majesty's assent, or that he reserves such bill for the signification of her Majesty's pleasure thereon.

Disallowance
of bills
assented to.

And be it enacted that whenever any bill, which shall have been presented for her Majesty's assent to the Governor of the said Province of Canada, shall by such Governor have been assented to in her Majesty's name, such Governor shall by the first convenient opportunity transmit to one of her Majesty's principal Secretaries of State an authentic copy of such bill so assented to; and that it shall be lawful at any time within two years after such bill shall have been so received by such Secretary of State, for her Majesty by Order in Council to declare her disallowance of such bill; and that such disallowance, together with a certificate under the hand and seal of such Secretary of State certifying the day on which such bill was received as aforesaid, being signified by such Governor to the Legislative Council and Assembly of Canada by speech or message to the Legislative Council and Assembly of the said Province, or by proclamation, shall make void and annul the same from and after the day of such signification.

Assent to
bills
reserved.

And be it enacted that no bill which shall be reserved for the signification of her Majesty's pleasure thereon shall have any force or authority within the Province of Canada until the Governor of the said Province shall signify, either by speech or message to the Legislative Council and Assembly of the said Province, or by proclamation, that such bill has been laid before her Majesty in Council and that her Majesty has been pleased to assent to the same; and that an entry shall be made in the journals of the said Legislative Council of every such speech, message, or proclamation, and a duplicate thereof duly attested shall be delivered to the proper officer to be kept amongst the records of the said Province; and that no bill which shall be so reserved as aforesaid shall have any force or authority in the said Province unless her Majesty's assent thereto shall have been so signified as aforesaid within the space of two years from the day on which such bill shall have been presented for her Majesty's assent to the Governor as aforesaid.

And be it enacted that from and after the said reunion of the said two Provinces, all writs, proclamations, instruments for summoning and calling together the Legislative Council and Legislative Assembly of the Province of Canada and for proroguing and dissolving the same, and all writs of summons and election, and all writs and public instruments whatsoever relating to the said Legislative Council and Legislative Assembly or either of them, and all returns to such writs and instruments, and all journals, entries, and written or printed proceedings of what nature soever of the said Legislative Council and Legislative Assembly and each of them respectively, and all written or printed proceedings and reports of committees of the said Legislative Council and Legislative Assembly respectively, *shall be in the English language only*: Provided always, that this enactment shall not be construed to prevent translated copies of any such documents being made, but no such copy shall be kept among the records of the Legislative Council or Legislative Assembly, or be deemed in any case to have the force of an original record. (Lord John Russell explained that this section only dealt with English as the language of "original record." There is nothing, however, in this section against French as the language of debate, and indeed it was used as such from the time of first Union Parliament. For the repeal of this section, see No. CLXXIII and note.)

Language of
Legislative
records.

And be it enacted that all laws, statutes, and ordinances which at the time of the union of the Provinces of Upper and Lower Canada shall be in force within the said Provinces or either of them or any part of the said Provinces respectively, shall remain and continue to be of the same force, authority, and effect in those parts of the Province of Canada which now constitute the said Provinces respectively as if this Act had not been made, and as if the said two Provinces had not been united as aforesaid, except in so far as the same are repealed or varied by this Act, or in so far as the same shall or may hereafter by virtue and under the authority of this Act be repealed or varied by any Act or Acts of the Legislature of the Province of Canada.

Existing
laws saved.

And be it enacted that upon the union of the Provinces of Upper and Lower Canada, all duties and revenues over which the respective Legislatures of the said Provinces before and at the time of the passing of this Act had and have power of appropriation, shall form one consolidated revenue fund to be appropriated for the public service of the Province of Canada in the manner and subject to the charges hereinafter mentioned.

Revenues of
the two
Provinces
to form a
Consolidated
Revenue
Fund.

And be it enacted that the expenses of the collection, management, and receipt of the said consolidated revenue fund shall form the first charge thereon; and that the annual interest of the Public Debt of the Provinces of Upper and Lower Canada, or of either of them, at the time of the reunion of the said Provinces shall form the second charge thereon; and that the payments to be made to the clergy of the United Church of England and Ireland, and to clergy of the Church of Scotland, and to ministers of other Christian denominations, pursuant to any law or usage whereby such payments before or at the passing of this Act were or are legally or usually paid out of the public or Crown revenue of either of the Provinces of Upper and Lower Canada, shall form the third charge upon the said consolidated revenue fund; and that the said sum of forty-five thousand pounds shall form the fourth charge thereon; and that the said sum of thirty thousand pounds, as long as the same shall continue to be payable, shall form the fifth charge thereon; and that the other charges upon the rates and duties levied within the said Province of Canada hereinbefore reserved shall form the sixth charge thereon, so long as such charges shall continue to be payable.

The order
of charges
on the
Consolidated
Fund to be:—
1st, Expense
of Collection;
2nd, Interest
of the debt;

3rd, pay-
ments to
the Clergy;

4th and 5th
Civil List;
6th, Other
charges
already
made on
the Public
Revenue.

And be it enacted that, subject to the several payments hereby charged on the said Consolidated revenue Fund, the same shall be appropriated by the Legislature of the Province of Canada for the public service in such manner as they shall think proper: Provided always that all bills for appropriating any part of the surplus of the said consolidated revenue fund, or for imposing any new tax or import, shall originate in the Legislative Assembly of the said Province of Canada: Provided also that it shall not be lawful for the said Legislative Assembly to originate or pass any vote, resolution, or bill for the appropriation of any part of the surplus of the said consolidated revenue fund, or of any other tax or impost, to any purpose which shall not have been first recommended by a message of the Governor to the said Legislative Assembly during the session in which such vote, resolution, or bill shall be passed.

Subject to
the above
charges, the
Consolidated
Revenue
Fund to be
appropriated
by the
Provincial
Legislature,
by bills,
etc.

RESPONSIBLE GOVERNMENT⁽¹⁹⁾

In reviewing that period which extends from the beginning of the nineteenth century to the end of the Union of the two Canadas one cannot but recall the idea of responsible government. During that period, and more particularly in the middle forties, the concept of responsible government explains the main events which took place. It is the end towards which Canadian parliamentarians were striving and it is in attaining this objective that they have taken the most important step in the slow but sure progress towards autonomy.

In the first years of the last century, Pierre Bédard had campaigned very strenuously in Lower Canada in favour of a government of men having the people's confidence. Every student of Canadian history knows of the struggles of Papineau, Neilson and Lafontaine for the triumph of this principle in Lower Canada. In Upper Canada, William Lyon Mackenzie and Baldwin, and Howe in Nova Scotia, experienced the same difficulties. The struggles of the legislatures are well known and need only be recalled to memory. It is, however, important to consider responsible government in itself and its consequences.

Responsible government exists when the Executive is responsible to a legislature and is kept in power by the vote of the majority of that assembly, elected by the people. Therefore, there is responsible government when the Ministry is made up of chiefs of administrative departments who remain at the head of their respective departments only as long as they are supported by the majority of the assembly.

It has also been called government by parliament or by the cabinet. Theoretically, the executive power is vested in the governor, or, if one prefers, in the governor in council. In reality, it is the ministers who govern, and, although the latter are appointed by the Crown, the governor who represents the Crown chooses his ministers from the members elected belonging to the majority group.

Writing to Lord Castlereagh, then Colonial Secretary, about the Canadian Party, Governor Craig of Lower Canada expressed the following opinion: "They either believe, or affect to believe that there exists a Ministry here, and that in imitation of the constitution of Britain that Ministry is responsible to them for the conduct of the Government. It is not necessary that I should point out to your Lordship the steps to which such an idea may lead."

In 1835, quite a variation might be noticed in the opinion of the Colonial Secretary, so much so that Lord Glenelg wrote to Governor Head: "To His Majesty and to Parliament the Governor of Upper Canada is at all times most fully responsible for his official acts. This responsibility . . . is one which it is in the power of the House of Assembly at any time, by address or petition, to bring into active operation. . . . The principle of effective responsibility should pervade every department of your Government."

⁽¹⁹⁾ From *Problems of Canadian Sovereignty* by Maurice Ollivier, pages 24 to 34. (With permission of the Canada Law Book Company, Toronto.)

The following year, however, Craig declared that he would never allow an Executive Council officially to assume that heavy responsibility which he owes to his Sovereign as well as to the people of the province.

In 1837, Lord John Russell succeeded in having adopted by the House of Commons the famous resolutions which brought about the troubles previously mentioned. Everything that had been asked for was refused. Russell refused, among other things, to recognize that the Executive Council in Canada was modelled on that of England. Pursuant to the traditions of the Colonial Office, this proposition was wholly inconsistent with the relations to be had between the Mother Country and a colony. According to his way of thinking, it would result from the admitting of such a principle that Canada would then cease to be a colony, that such power could not be granted to a colonial legislature, for it would affect the prerogative of the British Crown. His opinion was still the same in June, 1839, when he introduced his bill for the union of the two Canadas. He made it known that Lord Durham's report had not changed his opinion that an Executive council in Canada could not enjoy the same responsibility as the Executive Council in England, and, he added further, that the governor received his instructions from the Crown under the responsibility of the Secretary of State. After having read Lord Durham's report and knowing thereby his thoughts on the subject, it is easy to imagine what answer he made in the House of Lords to the speech made in the House by Lord Russell. Again Lord Russell expressed the same sentiments in his dispatches of the 7th of September and the 14th of October, 1839, to Governor Thompson.

For his part, Thompson was a very apt pupil and had forgotten nothing that Russell had taught him, and he wrote on the 12th of September, 1839: "I am not a bit afraid of the responsible government cry. I have already done much to put it down in its inadmissible sense, namely, the demand that the council shall be responsible to the assembly, and that the governor shall take their advice, and be bound by it." He wrote further to Russell on the 27th of May, 1840: "Acting upon the principle which I have on a former occasion laid down, I can only look on the Council as persons whose advice the Governor may seek, and which he may adopt or not as he pleases, the responsibility of any decision to which he may come, resting upon him alone. . . ."

Many other quotations may be made from Thompson's letters. They are all in the same vein, for he believed, as he further stated to Russell on the 27th of June, 1841 (after having been made Lord Sydenham in August, 1840), that what was required for Canada as governor was one who had the firm will to govern as he had himself.

Enough has been said as to the attitude of the governors which were sent to Canada to indicate that they certainly did not favour the idea of responsible government in Canada and to show that a great deal of credit is due to Lord Durham who advocated the idea.

Two other conclusions might be drawn: First, that responsible government was not created by the Union Act, and the second one, which follows the first, that it is useless to establish our status between 1840 and 1867 by the terms of the Union Act, and between 1867 and 1931 from the terms of the British North America Act. The establishment of responsible government is not predicated upon any law. Its existence is due to the instructions given to a governor that he should choose his ministers from a group having, according to its majority, the confidence of the Assembly. The relations between the Legislature and the Executive are not defined by the constitution of 1840, nor were they twenty-seven years later by the British North America Act. Section 45 of the Union Act mentions the Executive Council to be appointed by Her Majesty but does not refer to the responsibility of the council. It can be stated that responsible government has existed in Canada as in the other Dominions, not by virtue of the constitution, but that it has developed in the natural course of events, by constitutional practice and precedent. It was later recognized in the instructions which the Colonial Secretary of State transmitted to the governors. No trace of responsible government can be found in the instructions given to Sydenham, Metcalfe or Bagot.

Lord John Russell summarized the principles of the constitution of 1840 as follows: "A legislative union of the two provinces, the maintenance of the three estates of the provincial legislature, the settlement of a permanent civil list for securing the independence of the judges, and to the executive government that freedom of action which is necessary for the public good, and the establishment of a system of local government by representative bodies, freely elected in the various cities and rural districts."

In his instructions to the Governor General in 1841, Lord Russell advised calling to the council these persons who by their position and character have deserved the confidence and esteem of the inhabitants of the province. We have seen the interpretation Sydenham was to give to this purposely vague advice.

The Baldwin-La Fontaine Ministry which was unwilling to accept Lord Sydenham's idea of ministerial responsibility, and had for that reason previously been forced to resign, came back to power in 1848, thus ensuring the triumph of those ideas for which the party had fought between 1843 and 1847.

It might here be pointed out that in Nova Scotia responsible government existed as far back as 1846 by virtue of a dispatch from Lord Grey to Sir John Harvey, then lieutenant-governor of that province, in which the Colonial Secretary declared that the Executive Council could be retained as long as it had the confidence of the legislature. It is correct to state that responsible government appeared in Canada in 1847 and that on the 11th of March, 1848, the reorganization of the Baldwin-La Fontaine Ministry inaugurated the era of free government in our country. This date marks the birth of our nation.

We have mentioned 1847 as the date of the appearance of responsible government, the year when Lord Elgin was appointed Governor General. For the first time, the instructions from the Secretary of State of the colonies, Lord Grey, recognize the idea of ministerial responsibility. It is therein stated clearly that the Governor must act generally upon the advice of his Executive Council and that he must choose as its members those persons who are indicated to him as having the right to be called thereto from the fact that they enjoy the confidence of the Assembly.

It may be stated that responsible government was established in 1848 just as it may be said that Canada became a sovereign country in 1931. It might be fair perhaps to say that these dates show the exact time when those facts were officially recognized, for, in British countries legal definitions generally recognize and sanction existing conditions.

To be convinced one has but to read the confidential dispatch from Governor Metcalfe to Lord Stanley, dated the 24th of April, 1843, in which the former states, speaking about his Executive Council, that "they consider themselves already as a responsible ministry and expect that the politic and the conduct of the Governor shall follow their point of view and recognize their opinion as a political party." The Governor insisted on choosing his advisers without distinction of party. His opinion was that the country should be governed by himself and not by a political party.

Notwithstanding its importance, the acquisition of responsible government by the country was not the only event which changed our status between 1840 and 1848. Since 1842, the British government had abstained from making custom tariffs for the colony and in the year 1846 an Imperial statute was passed, chapter 94, 9-10 Victoria, which authorized the colonies to enact their own customs laws. From that date, we could therefore regulate our own commerce to suit our own taste without outside intervention. About the same time, Canada obtained the command of the civil list while the Imperial Parliament refrained from disposing in any way of the revenues of the province. Another barrier to our autonomy disappeared when Canada obtained the control of its postal administration. However, all the advantages then obtained in the political domain, with the hope conveyed of what was to follow gradually, were insufficient to bring about the union of the population or its economic welfare. To bring about unity, that clause of the constitution restricting the use of the French language in the Legislature was abrogated in 1848. As to the economic difficulties, they were due to two causes: (1°) the adoption by Great Britain in 1846 of the theory of free trade; (2°) the nefarious navigation laws. The farmers and millers found themselves in great difficulties not having in England any more the protected markets to which they had been accustomed. Industry, commerce and agriculture were in a slump, so much so that a very pronounced annexationist movement developed all over the country, more particularly in Montreal, where a resounding manifesto in favour of union with the neighbouring republic was issued. A dual remedy to the crisis was devised: the repeal

of the navigation clauses, the effect of which was to make the navigation on the St. Lawrence free, and the signing of a treaty of reciprocity on natural products with the United States.

In 1844 the Imperial government adopted an Act which we might consider for a moment. The Legislative Assembly had asked by an address to the British government the right to amend the constitution of the Legislative Council, and the House of Commons in London granted this request. Accordingly, ten years later the Canadian legislature passed an Act establishing an elective upper Chamber.

As the Canadians had protested ten years previously when England abandoning its protection policy had opened its markets to all countries and had ceased to grant us the particular advantages which had been ours up till then, in the same manner ten years later, that is in 1859, by a strange coincidence which indicated the progress we had made in our evolution towards complete autonomy, it was England who strongly protested when the Canadian tariff of 1859 definitely sanctioned the principle of protection.

As we have previously mentioned, an Imperial Act passed in 1846 had authorized the colonies to enact their own tariff laws. On the strength of this authorization, Sir John Macdonald subjected English merchandise coming into Canada to tariff duties. Many members of the House of Commons at Westminster were in favour of the disallowance of an Act so audacious. Our own Minister of Finance, Sir Alexander Galt, answered them in a dispatch to the Colonial Office by which he claimed for the Canadian legislature the right to adopt its own customs tariff.

THE YEARS PRECEDING CONFEDERATION⁽²⁰⁾

Long before 1867 the Union Act had ceased to work properly. More particularly, the inhabitants of Upper Canada who, in 1840, had no objection to the two provinces having equal representation while they were fewer in number, could not help but think differently when their own population, much increased by constant immigration, became more numerous than that of Lower Canada. The claims for representation proportional to the population therefore came more especially from Upper Canada. On the other hand, the two political parties were at times so evenly divided, especially between 1862 and 1864, that five changes of ministry then took place and it was extremely difficult to govern under the circumstances as the fate of the government was dependent upon the transfer of a couple of votes, sometimes of a single one.

Sir John A. Macdonald⁽²¹⁾ was of the opinion that the first mention made in the legislature of a project of federation of the provinces was made by the Honourable A. J. Galt, but

⁽²⁰⁾ See *Problems of Canadian Sovereignty* by Maurice Ollivier, pages 34 to 36. (With permission of the Canada Law Book Company.)

⁽²¹⁾ Speech in the House on the occasion of the debate on Confederation, February 6, 1865.

it was only in 1858, on the occasion of the formation of the Cartier-Macdonald ministry, that a political party made it an article of its programme and set out to accomplish it.

However, as stated by the Honourable George Brown on the 8th of February, 1865, this promise was more or less forgotten and no more was heard about it, at least seriously, until 1864 when it became impossible to delay any longer the solution of the political difficulties which had arisen and which were destroying our credit, our prosperity and our progress.

Anxious to make use of the tendencies towards union of the maritime provinces, the government of Canada decided to send delegates to the convention in Charlottetown. This convention was soon to be followed by another one in Quebec where the delegates of the different British colonies of North America met. Seventy-two resolutions were adopted at this conference to be used as a basis for the future constitution. These resolutions were adopted in the legislature of Canada early in 1865, after having been introduced in the Council by Sir Etienne-Pascal Taché, and, in the Assembly by Sir John A. Macdonald, supported by Sir Georges-Etienne Cartier. The proposition was as follows:

"That an humble address be presented to Her Majesty, praying that she may be graciously pleased to cause a measure to be submitted to the Imperial Parliament for the purpose of uniting the Colonies of Canada, Nova Scotia, New Brunswick, Newfoundland and Prince Edward Island in one Government, with provisions based on certain resolutions, which were adopted at a Conference of Delegates from the said Colonies, held at the City of Quebec, on the 10th October, 1864."

The maritime provinces were hesitating, however, to accept this project for reasons of a financial character, and a new conference was required which took place in London in 1866. Finally, the British North America Act was introduced in the Parliament of Westminster on the 21st of February, 1867, and was ratified the 29th of March of the same year.

THE BRITISH NORTH AMERICA ACT, 1867

Its nature with a summary of its main provisions.

There has been a certain amount of discussion as to whether the B.N.A. Act was a pact or not. This discussion has taken place amongst writers on constitutional law and the subject has been perhaps more frequently mentioned in political speeches. Strictly speaking it is impossible to say that the B.N.A. Act is a pact since it is an Act of the Imperial Parliament which is supreme. On the other hand this statute cannot, in this day and age, be amended without the consent of Canada and, furthermore, it is based upon an understanding which had taken place between the different colonies. We might recall here that these resolutions constituted a compromise, a sort of pact or understanding, and we might add that our constitution is a re-edition of this understanding with very few changes. These resolutions were adopted at the Quebec Conference which had followed that of Charlottetown and they were put in statute form at the London Conference.

As the different provinces, or colonies, as they then were called, were anxious to protect their autonomy it had been decided to have a federal union rather than a legislative one. It is true that a government less divided between different jurisdictions, consequently much stronger, if, for instance, there had been only a central government, might have obtained for Canada much sooner that independence which it now enjoys. On the other hand Lower Canada could not consent to a union where the inhabitants of the province by becoming a minority would have ran the risk of seeing their nationality submerged and of losing their language, the Civil law and the traditions to which they were rightly attached.

It is not mentioned in the B.N.A. Act anymore than in the Union Act, that the Dominion should enjoy responsible government; on the contrary Section 9 of the Statute declares that the executive government and authority of and over Canada is to continue and be vested in the Queen;—Section 11 institutes the Privy Council for Canada and Section 12 states that the powers of the Governor General should be exercised by the Governor General on the advice of his Council or by the Governor General alone, as the case may be.

Bourinot in his book: "How Canada is Governed" writes that:

"The Canadian constitution, or British North America Act of 1867, is a statute of the parliament of Great Britain, before whom as the supreme legislative authority of the empire the provinces of Canada had to come and express their desire to be federally united. In the addresses to the queen containing the resolutions of the Quebec conference of 1864, the legislatures of the provinces set forth that in a federation of the British North American provinces the system of government best adapted under existing circumstances to protect the diversified interests of the several provinces, and secure harmony and permanency in the working of the union, would be a general government charged with matters of common interest to the whole country, and local governments for each of the Canadas, and for the provinces of Nova Scotia, New Brunswick and Prince Edward Island, charged with the control of local matters in their respective sections."

In the third paragraph the resolutions declare that "in framing a constitution for the general government, the conference, with a view to the perpetuation of our connection with the mother country, and the promotion of the best interests of the people of these provinces, desire to follow the model of the British constitution so as our circumstances permit." In the fourth paragraph it sets forth: "The executive authority or government shall be vested in the sovereign of the United Kingdom of Great Britain and Ireland, and be administered according to the well-understood principles of the British constitution, by a sovereign personally, or by the representative of the sovereign duly authorized."

In these three paragraphs we see clearly expressed the leading principles on which our system of government rests:

A federation with a central government exercising general powers over all the members of the union, and a number of local governments having the control and management of certain matters naturally and conveniently belonging to them, while each government is administered in accordance with the British system of parliamentary institutions.

Here we might ask ourselves what is a constitution and we will find that it is the fundamental law of a state directing the principles upon which the government is founded and regulating the exercise of the sovereign powers, directing to what bodies and persons those powers shall be confided and the manner of their exercise.

Amongst the distinctions to be established in constitutions we should mention that of—written and unwritten constitutions. These words however should not be taken too literary as in a country which is governed by a written constitution much of the constitutional or fundamental law is unwritten and is to be found outside the written document called: “The Constitution” for instance amongst the constitutional conventions which have really the force of law. On the other hand a country has an unwritten constitution when the constitution is not contained in a single and overriding document which does not mean however, that no part of this constitution is written. In countries like England for instance it has been said that the country did not have a constitution because it could not produce a written document called the Constitution; “however there is no doubt that there exists an English constitution which any student of history may recognize and admire composed of a limited number of conceptions and privileges granted by the Kings of the earlier periods of certain great leading principles admitted at different times and transmitted from generation to generation, imperishably recorded in Magna Carta and in the Petition of Right, the Bill of Rights, the Act of Settlement and many other statutes. It is composed also of traditions, customs and constitutional conventions. It means freedom to think, to live, to worship and to work our destiny as men and women who have a great mission and a great responsibility and obligation.” The English Constitution is part of our own from the very preamble of the B.N.A. Act where it is stated that the provinces have expressed the desire to be federally united with a constitution similar in principle to that of the United Kingdom.

Our constitution deals with the three powers that is: the legislative—the executive—and the judicial. The legislative, which makes the laws—the executive, which administers them—and the judicial, which has to do with their interpretation. Our actual system of government was therefore established by the B.N.A. Act 1867 which is a law of the Imperial Parliament passed in the early part of 1867 without a division and which united at that time the province of Canada, now divided into Ontario and Quebec, with Nova Scotia and New Brunswick, and made provision at the same time for the coming in of the other provinces; the word—federation—is a misnomer for what was then created was a federal union, a system which comprises a central government to control these matters which are essential for the development, permanency and unity of the whole country and also a certain number of provincial governments to deal with local subjects, more defined, and which naturally come under their jurisdiction. The Canadian Constitution is therefore a statute of the Parliament of Great Britain before whom, as the supreme legislative authority of the Empire, the

colonies had to come and express their desire to be federally united. The leading principles on which our system of government rests are clearly expressed in the resolutions of the Quebec Conference of 1864 where the legislatures set forth that they desired a federation with a central government exercising general powers over all the members of the union and a number of local governments having the control and management of certain matters naturally and conveniently belonging to them while each government is to be administered in accordance with the British system of parliamentary institutions. The act itself contained in the origin 147 sections, divided into 11 parts, dealing, amongst other things, with the union which it created, the executive government and authority of and over Canada, the legislative power divided for Canada itself amongst the Senate and the House of Commons to act in co-operation, dealing also with the provincial constitutions and, what is exceedingly important, with the distribution of legislative powers as between Canada and its provinces, and further with the judicature, with revenues, debts, assets and taxation and, finally, with miscellaneous provisions and the admission of other colonies into the union. This gives the scope of the Act itself. Now to come back to the details of these subjects by dealing first with the Executive Power which is vested in the King, represented by the Governor General; in practice the Executive government is in the hands of the cabinet selected from the members of the Privy Council for Canada who form the responsible advisory council of the sovereign's representative.

The position of the Governor General has been much altered since 1867; little by little his powers have diminished and today he is neither a Governor nor a General, but rather a very colorful representative to whom should be granted the title of Vice-Roy. As our autonomy has been increased the powers of our governors have contrariwise diminished gradually and continuously. We could now summarize the Governor's position by saying that he is the King's personal representative and not as he used to be the agent of His Majesty's government in Great Britain. At the time of his appointment, the government of Canada selects its own candidate whom constitutionally the King must accept. It is only a case of the application of the doctrine of ministerial responsibility. The result is that the Governor General, so chosen, will exercise the executive power upon the advice of his responsible ministers but naturally in the name of the King. The government of Great Britain does not intervene in any way.

We shall now leave the Governor General and the executive to deal with the legislative power and note that Section 17 of the B.N.A. Act states that: "There shall be One Parliament for Canada, consisting of the Queen, an Upper House, styled The Senate, and the House of Commons." The Senate has at present 96 members and the next House of Commons will have 255 members in accordance with the amendment made to the British North America Act in 1946. The senators are summoned to the Senate by the Governor General under the great seal of Canada and the qualifications of senators are that they shall be British subjects of thirty years of age, possessing within the province for which they are appointed real estate of the value

of \$4,000 clear of all encumbrances and be residents in the province for which they are appointed. The Act also provides for the disqualification of senators, for the appointment of the Speaker of the Senate, for the constitution of the House of Commons and for the elections of the members thereof. It deals further with the election of the Speaker of the House, for the procedure and quorum thereof, the voting therein, the duration of every House and the decennial readjustment of representation and the increase in the number of members. The Act provides that bills for appropriating any part of the public revenue or for imposing any tax or impost shall originate in the House of Commons, and that money votes shall be first recommended to the House by message of the Governor General.

The next sections deal with the Royal-Assent to bills which have passed both houses of Parliament and with the disallowance and reservation of bills after they have been passed; it is unnecessary to insist on these provisions as they have fallen into disusage.

The following part, that is: Part 5 of the B.N.A. Act, is concerned with the provincial constitutions, which are established somewhat on the model of the federal constitution, with a lieutenant-governor substituted for the Governor General, but nowadays the provinces, except Quebec, have only the lower Chamber, that is a Legislative Assembly. In Quebec there is a legislative Assembly and a Legislative Council corresponding to the Senate.

Now comes a very important part of the B.N.A. Act, that is: Part 6 which deals with the distribution of legislative powers. An essential characteristic of a federal union is the division or distribution of legislative powers between the government of the Union as a whole and the several parts that compose the Union. Accordingly the Canadian constitution gives to the central government at Ottawa the control of certain matters of a general or national character and to the provincial governments the control of certain matters of a provincial or local importance. Section 91 of the B.N.A. Act gives to the Parliament of Canada amongst other things the sole or exclusive right of making laws, for regulating trade and commerce, for the raising of money by any system of taxation, for the postal service, the armed forces, navigation and shipping, sea coast and inland fisheries, currency and coinage, banks and banking, bankruptcy, patents and copyrights, indians, naturalization, the Criminal Law and penitentiaries, and the residue of powers, that is: such classes of subjects as are not assigned exclusively to the legislatures of the provinces, also for works for the general advantage of Canada. Canada and the local governments exercise certain rights in common, as for instance with respect to agriculture, and further the Dominion government has by the constitution a general power of disallowing any act of the legislature within one year after its reception from the government of a province.

Now the legislature may in each province exclusively make laws in relation to certain matters enumerated in section 92, first one of which is the amendment of the constitution of the

province, which power is not possessed by the federal parliament; and it can impose direct taxation within the province, deal with provincial offices, manage and sell its public lands and the timber and wood thereon, establish, maintain and manage, prisons, hospitals, asylums, and eleemosynary institutions in and for the province. The provinces also have jurisdiction over the Municipal institutions in the province, jurisdiction respecting shops and licences, local works, the incorporation of companies with provincial objects, the administration of justice in the province and, what is most important, property and civil rights in the province, and, finally all matters of a merely local or private nature in the province. Another very important function of the province is the subject of education which is dealt with in a separate section which starts by saying that: In each province the legislature may exclusively make laws in relation to education. This clause however is subject to many qualifications respecting the rights and privileges of the denominational schools and the rights of the schools of the minority in each province as those rights stood at the time of Confederation.

The next part of chapter of the B.N.A. Act deals with the judicature and provides for the appointment of the judges by the Governor General in Council. Following clauses state how they shall be selected, deal with their tenure of office, their salaries and the creation of the Supreme Court, then we come to a part entitled: Revenues, Debts, Assets, Taxation.—This part provides for the creation of the Consolidated Revenue Fund from which all monies are appropriated for the public service of Canada in the manner as in the Act provided, the Financial relations between Canada and its provinces, the grants and subsidies to the provinces, the conditions relating to the debts of the central government and of the provinces, of the grants to the provinces, the forms of payments, the custom and excise laws. Amongst the miscellaneous provisions which follow is Section 133 which deals with the use of English and French languages. The other provisions of the Act are of less importance, except perhaps Section 146 which deals with the admission of other colonies and their representation in the Senate.

It is impossible to deal here with the evolution of our constitution, a gradual evolution which has gone ahead with the inevitability of gradualness, on account of the political genius and the broad-mindedness of Canadian statesmen who, from Macdonald and Blake to Laurier, Borden and King, to name but a few, have indicated and followed themselves the road lying ahead. But this is not only due to politicians; some years ago Stanley Baldwin said in the House of Commons at Westminster: "There is no doubt that one of the results of the war was to speed up the political development and conscientiousness of every dominion in the Empire". It is quite certain that the effect of the last war, as far as constitutional development is concerned, was no different from that of the first one.

The same spirit which has prompted Canada to such an effort as it has made and to such sacrifices as we have witnessed will again unite Canada to play amongst the other nations of the world that part which is rightly hers of an equal partner that is: an independent and sovereign nation.

The British Empire and the Commonwealth of British Nations constitute nowadays, together, a new experience, built on new principles, and the nations shall witness in the future, this fact that the spiritual link which unites all the parts of this vast organization is infinitely stronger than the military power which, for a time, has held together the Empires of the past.

COLONIAL LAWS VALIDITY ACT, 1865⁽²²⁾

(28 and 29 Victoria, c. 63.)

An Act to remove Doubts as to the Validity of Colonial Laws.

[29th June, 1865]

WHEREAS doubts have been entertained respecting the validity of divers laws enacted, or purporting to be enacted by the Legislatures of certain of Her Majesty's Colonies, and respecting the powers of such Legislatures; and it is expedient that such doubts should be removed:

Be it hereby enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. The term "colony" shall in this Act include all of Her Majesty's Possessions abroad, in which there shall exist a legislature as hereinafter defined, except the Channel Islands, the Isle of Man, and such territories as may for the time being be vested in Her Majesty, under or by virtue of any Act of Parliament for the government of India:

Definitions:
"Colony."

The terms "Legislature" and "Colonial Legislature" shall severally signify the authority (other than the Imperial Parliament or Her Majesty in Council), competent to make laws for any colony;

"Legisla-
ture,"
"Colonial
Legislature "

(²²) Common law is to be found partly in the statutes but, also, in sections, precedents and tradition. Before 1865, there existed a theory to the effect that legislation adopted by colonial legislatures should not be contrary or repugnant to the law of England. If at any time the legal lights in the United Kingdom were of opinion that a colonial law was unconstitutional because repugnant to the common law, they immediately recommended that a bill should be adopted by the Imperial Parliament to confirm the said colonial law.

This principle was recognized in Canada although not formulated in express terms in the Union Act. As the demarcation between the fundamental and non-fundamental principles of the English law was so vague that it was impossible to define it exactly in its application the Colonial Laws Validity Act was passed in 1865 to confer upon Colonial Legislatures the power of making laws even though repugnant to the English common law, but the Act declared that a Colonial law repugnant to the provisions of an Act of the Parliament of the United Kingdom extending to the Colony either by express words or by necessary intendment should be void to the extent of such repugnancy. The Act also removed doubts which had arisen regarding the validity of laws assented to by the Governor of a Colony in a manner inconsistent with the terms of his instructions.

The Act passed in 1865 for the benefit of the colonies and for the purpose of validating certain laws which might have been annulled for their repugnancy to the English common law became restrictive of the autonomy of the Dominion due to the fact that a Colonial Act repugnant to any particular law of the United Kingdom applicable to the colony was void to the extent of such repugnancy. This Act was repealed by section two of the Statute of Westminster. See notes to the Statute of Westminster, 1931 in this volume, also *Problems of Canadian Sovereignty*, by Maurice Olliver, pages 99 to 105. (With permission of the Canada Law Book Company, Toronto.)

“Representative Legislature.”	The term “Representative Legislature” shall signify any Colonial Legislature which shall comprise a legislative body of which one-half are elected by inhabitants of the colony;
“Colonial Law.”	The term “Colonial Law” shall include laws made for any colony, either by such Legislature as aforesaid or by Her Majesty in Council;
Act of Parliament, etc., when to extend to Colony.	An Act of Parliament, or any provision thereof, shall, in construing this Act, be said to extend to any colony when it is made applicable to such colony by the express words or necessary intendment of any Act of Parliament;
“Governor.”	The term “Governor” shall mean the officer lawfully administering the Government of any colony;
“Letters Patent.”	The term “Letters Patent” shall mean letters patent under the great seal of the United Kingdom of Great Britain and Ireland.
Colonial Law when void for repugnancy.	2. Any colonial law, which is or shall be repugnant to the provisions of any Act of Parliament extending to the colony to which such law may relate, or repugnant to any order or regulation made under authority of such Act of Parliament, or having in the colony the force or effect of such Act, shall be read subject to such Act, order, or regulation, and shall, to the extent of such repugnancy, but not otherwise, be and remain absolutely void and inoperative.
Colonial Law when not void for repugnancy.	3. No colonial law shall be or be deemed to have been, void or inoperative on the ground of repugnancy to the law of England, unless the same shall be repugnant to the provisions of some such Act of Parliament, order, or regulation, as aforesaid.
Colonial Law not void for inconsistency with instructions.	4. No colonial law, passed with the concurrence of or assented to by the Governor of any colony, or to be hereafter so passed or assented to, shall be, or be deemed to have been, void or inoperative by reason only of any instructions with reference to such law, or the subject thereof, which may have been given to such Governor, by or on behalf of Her Majesty, by any instrument other than the letters patent or instrument authorizing such Governor to concur in passing or to assent to laws for the peace, order, and good government of such colony, even though such instructions may be referred to in such letters patent, or last-mentioned instrument.
Colonial Legislatures may establish, etc., Courts of Law.	5. Every colonial Legislature shall have, and be deemed at all times to have had, full power within its jurisdiction to establish courts of judicature, and to abolish and reconstitute the same, and to alter the constitution thereof, and to make provision for the administration of justice therein; and every representative Legislature shall, in respect to the colony under its jurisdiction, have, and be deemed at all times to have had, full power to make laws respecting the constitution, powers, and procedure of such Legislature; provided that such laws shall have been passed in such manner and form as may from time to time be required, by any Act of Parliament, letters patent, Order in Council, or colonial law for the time being in force in the colony.
Representative Legislature may alter Constitution.	

6. The certificate of the clerk or other proper officer of a legislative body in any colony to the effect that the document to which it is attached is a true copy of any colonial law assented to by the Governor of such colony, or of any bill reserved for the signification of Her Majesty's pleasure by the said Governor, shall be prima facie evidence that the document so certified is a true copy of such law or bill, and, as the case may be, that such law has been duly and properly passed and assented to, or that such bill has been duly and properly passed and presented to the Governor; and any proclamation, purporting to be published by authority of the Governor, in any newspaper in the colony to which such law or bill shall relate, and signifying Her Majesty's disallowance of any such colonial law, or Her Majesty's assent to any such reserved bill as aforesaid, shall be prima facie evidence of such disallowance or assent.

Certified copies of laws to be evidence that they are properly passed.

Proclamation to be evidence of assent and disallowance.

And whereas doubts are entertained respecting the validity of certain Acts enacted, or reputed to be enacted, by the Legislature of South Australia: be it further enacted as follows:

Certain Acts of Legislature of South Australia to be valid.

7. All laws or reputed laws enacted or purporting to have been enacted by the said Legislature, or by persons or bodies of persons for the time being acting as such Legislature, which have received the assent of Her Majesty in Council, or which have received the assent of the Governor of the said Colony in the name and on behalf of Her Majesty, shall be and be deemed to have been valid and effectual from the date of such assent for all purposes whatever; provided that nothing herein contained shall be deemed to give effect to any law or reputed law which has been disallowed by Her Majesty, or has expired, or has been lawfully repealed, or to prevent the lawful disallowance or repeal of any law.

TEXT OF
QUEBEC RESOLUTIONS 1864
AND
LONDON RESOLUTIONS 1866

Text, as contained in an Appendix to Correspondence respecting "The Proposed Union of the British North American Provinces" presented to both Houses of Parliament of the United Kingdom, February 8, 1867, comprising (I) "Report of Resolutions adopted at a Conference of Delegates from the Provinces of Canada, Nova Scotia and New Brunswick, and the Colonies of Newfoundland and Prince Edward Island, held at the City of Quebec, October 10, 1864, as the Basis of a proposed Confederation of those Provinces and Colonies"; (II) "Resolutions adopted at a Conference of Delegates from the Provinces of Canada, Nova Scotia, and New Brunswick, held at the Westminster Palace Hotel, London, December 4, 1866."

I.—QUEBEC RESOLUTIONS.⁽²³⁾

Report of Resolutions adopted at a Conference of Delegates from the Provinces of Canada, Nova Scotia, and New Brunswick, and the Colonies of Newfoundland and Prince Edward Island, held at the city of Quebec, October 10, 1864, as the Basis of a proposed Confederation of those Provinces and Colonies.

1. The best interests and present and future prosperity of British North America will be promoted by a Federal Union under the Crown of Great Britain, provided such Union can be effected on principles just to the several Provinces.

2. In the Federation of the British North American Provinces the system of government best adapted under existing circumstances to protect the diversified interests of the several Provinces, and secure efficiency, harmony, and permanency in the working of the Union,—would be a General Government charged with matters of common interest to the whole country, and Local Governments for each of the Canadas and for the Provinces of Nova Scotia, New Brunswick, and Prince Edward Island, charged with the control of local matters in their respective sections, provision being made for the admission into the Union on equitable terms of Newfoundland, the Northwest Territory, British Columbia, and Vancouver.

3. In framing a Constitution for the General Government, the Conference, with a view to the perpetuation of our connexion with the Mother Country, and to the promotion of the best interests of the people of these Provinces, desire to follow the model of the British Constitution, so far as our circumstances will permit.

4. The Executive Authority or Government shall be vested in the Sovereign of the United Kingdom of Great Britain and Ireland, and be administered according to the well understood principles of the British Constitution by the Sovereign personally or by the Representative of the Sovereign duly authorized.

5. The Sovereign or Representative of the Sovereign shall be Commander-in-Chief of the Land and Naval Militia Forces.

6. There shall be a general Legislature or Parliament for the Federated Provinces, composed of a Legislative Council and a House of Commons.

7. For the purpose of forming the Legislative Council, the Federated Provinces shall be considered as consisting of three divisions:—1st, Upper Canada; 2nd, Lower Canada; 3rd,

⁽²³⁾ For a discussion of the Quebec resolutions see "Note *re* Conferences at Charlottetown, Quebec and London (1864-67), Note *re* Quebec Conference (1864)," by W. F. O'Connor "*Report to the Speaker of the Senate, 1939*," pages 22 to 36 of Annex No. 4.

Nova Scotia, New Brunswick, and Prince Edward Island; each division with an equal representation in the Legislative Council.

8. Upper Canada shall be represented in the Legislative Council by 24 members, Lower Canada by 24 members, and the three Maritime Provinces by 24 members, of which Nova Scotia shall have 10, New Brunswick 10, and Prince Edward Island four members.

9. The Colony of Newfoundland shall be entitled to enter the proposed Union, with a representation in the Legislative Council of four members.

10. The North-west Territory, British Columbia, and Vancouver shall be admitted into the Union, on such terms and conditions as the Parliament of the Federated Provinces shall deem equitable, and as shall receive the assent of Her Majesty; and in the case of the Province of British Columbia or Vancouver, as shall be agreed to by the Legislature of such Province.

11. The Members of the Legislative Council shall be appointed by the Crown under the Great Seal of the General Government, and shall hold office during life; if any Legislative Councillor shall, for two consecutive sessions of Parliament, fail to give his attendance in the said Council, his seat shall thereby become vacant.

12. The Members of the Legislative Council shall be British subjects by birth or naturalization, of the full age of 30 years, shall possess a continuous real property qualification of four thousand dollars over and above all incumbrances, and shall be and continue worth that sum over and above their debts and liabilities, but in the case of Newfoundland and Prince Edward Island the property may be either real or personal.

13. If any question shall arise as to the qualification of a Legislative Councillor, the same shall be determined by the Council.

14. The first selection of the Members of the Legislative Council shall be made, except as regards Prince Edward Island, from the Legislative Councils of the various Provinces, so far as a sufficient number be found qualified and willing to serve. Such Members shall be appointed by the Crown at the recommendation of the General Executive Government, upon the nomination of the respective Local Governments; and in such nomination due regard shall be had to the claims of the Members of the Legislative Council of the opposition in each Province, so that all political parties may as nearly as possible be fairly represented.

15. The Speaker of the Legislative Council (unless otherwise provided by Parliament) shall be appointed by the Crown from among the Members of the Legislative Council, and shall hold office during pleasure, and shall only be entitled to a casting vote on an equality of votes.

16. Each of the 24 Legislative Councillors representing Lower Canada in the Legislative Council of the General Legis-

lature shall be appointed to represent one of the 24 electoral divisions mentioned in Schedule A. of Chapter 1st of the Consolidated Statutes of Canada, and such Councillor shall reside or possess his qualification in the division he is appointed to represent.

17. The basis of Representation in the House of Commons shall be population, as determined by the official census every 10 years; and the number of Members at first shall be 194, distributed as follows:

Upper Canada.....	82
Lower Canada.....	65
Nova Scotia.....	19
New Brunswick.....	15
Newfoundland.....	8
and Prince Edward Island.....	5

18. Until the official census of 1871 has been made up, there shall be no change in the number of Representatives from the several sections.

19. Immediately after the completion of the census of 1871, and immediately after every decennial census thereafter, the representation from each section in the House of Commons shall be re-adjusted on the basis of population.

2. For the purpose of such re-adjustments, Lower Canada shall always be assigned 65 Members, and each of the other sections shall at each re-adjustment receive for the 10 years then next succeeding, the number of members to which it will be entitled on the same ratio of representation to population as Lower Canada will enjoy according to the census last taken by having 65 members.

21. No reduction shall be made in the number of Members returned by any section unless its population shall have decreased relatively to the population of the whole Union to the extent of five per centum.

22. In computing at each decennial period the number of Members to which each section is entitled, no fractional parts shall be considered unless when exceeding one-half the number entitling to a Member, in which case a Member shall be given for each such fractional part.

23. The Legislature of each Province shall divide such Province into the proper number of constituencies, and define the boundaries of each of them.

24. The Local Legislature of each Province may, from time to time, alter the electoral districts for the purposes of representation in the House of Commons, and distribute the Representatives to which the Province is entitled, in any manner such Legislature may think fit.

25. The number of Members may at any time be increased by the General Parliament, regard being had to the proportionate rights then existing.

26. Until provisions are made by the General Parliament all the laws which at the date of the Proclamation constituting

the Union are in force in the Provinces respectively relating to the qualification and disqualification of any person to be elected or to sit or vote as a Member of the Assembly in the said Provinces respectively—and relating to the qualification or disqualification of voters, and to the oaths to be taken by voters, and to Returning Officers and their powers and duties—and relating to the proceedings at elections,—and to the period during which such elections may be continued,—and relating to the trial of controverted elections, and the proceedings incident thereto,—and relating to the vacating of seats of Members,—and the issuing and execution of new writs in case of any seat being vacated otherwise than by a dissolution,—shall respectively apply to elections of Members to serve in the House of Commons, for places situate in those Provinces respectively.

27. Every House of Commons shall continue for five years from the day of the return of the writs choosing the same, and no longer, subject, nevertheless, to be sooner prorogued or dissolved by the Governor.

28. There shall be a Session of the General Parliament once at least in every year, so that a period of 12 calendar months shall nor intervene between the last sitting of the General Parliament in one session and the first sitting thereof in the next session.

29. The General Parliament shall have power to make Laws for the peace, welfare and good Government of the Federated Provinces (saving the Sovereignty of England), and especially Laws respecting the following subjects:—

1. The Public Debt and Property.
2. The Regulation of Trade and Commerce.
3. The imposition or regulation of Duties of Customs on Imports and Exports, except on Exports of Timber, Logs, Masts, Spars, Deals, and Sawn Lumber, and of Coal and other minerals.
4. The imposition and regulation of Excise Duties.
5. The raising of money by all or any other modes or systems of Taxation.
6. The borrowing of money on the public credit.
7. Postal service.
8. Lines of Steam or other Ships, Railways, Canals and other works, connecting any two or more of the Provinces together, or extending beyond the limits of any Province.
9. Lines of Steamships between the Federated Provinces and other Countries.
10. Telegraphic communication and the incorporation of Telegraph Companies.
11. All such works as shall, although lying wholly within any Province, be specially declared by the Acts authorizing them to be for the general advantage.
12. The Census.
13. Militia—Military and Naval Service and Defence.
14. Beacons, Buoys, and Lighthouses.

15. Navigation and Shipping.
16. Quarantine.
17. Sea Coast and Inland Fisheries.
18. Ferries between any Province and a Foreign Country, or between any two Provinces.
19. Currency and Coinage.
20. Banking, incorporation of Banks, and the issue of paper money.
21. Savings Banks.
22. Weights and Measures.
23. Bills of Exchange and Promissory Notes.
24. Interest.
25. Legal Tender.
26. Bankruptcy and Insolvency.
27. Patents of Invention and Discovery.
28. Copyrights.
29. Indians and Lands reserved for the Indians.
30. Naturalization and Aliens.
31. Marriage and Divorce.
32. The Criminal Law, excepting the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal matters.
33. Rendering uniform all or any of the laws relative to property and civil rights in Upper Canada, Nova Scotia, New Brunswick, Newfoundland, and Prince Edward Island, and rendering uniform the procedure of all or any of the Courts in these Provinces; but any Statute for this purpose shall have no force or authority in any Province until sanctioned by the Legislature thereof.
34. The establishment of a General Court of Appeal for the Federated Provinces.
35. Immigration.
36. Agriculture.
37. And generally respecting all matters of a general character, not specially and exclusively reserved for the Local Governments and Legislatures.

30. The General Government and Parliament shall have all powers necessary or proper for performing the obligations of the Federated Provinces, as part of the British Empire, to Foreign Countries, arising under Treaties between Great Britain and such Countries.

31. The General Parliament may also from time to time establish additional Courts, and the General Government may appoint Judges and Officers thereof, when the same shall appear necessary or for the public advantage, in order to the due execution of the Laws of Parliament.

32. All Courts, Judges, and Officers of the several Provinces shall aid, assist, and obey the General Government in the exercise of its rights and powers, and for such purposes shall be held to be Courts, Judges, and Officers of the General Government.

33. The General Government shall appoint and pay the Judges of the Superior Courts in each Province and of the County Courts of Upper Canada, and Parliament shall fix their salaries.

34. Until the Consolidation of the Laws of Upper Canada, New Brunswick, Nova Scotia, Newfoundland, and Prince Edward Island, the Judges of these Provinces appointed by the General Government shall be selected from their respective Bars.

35. The Judges of the Courts of Lower Canada shall be selected from the Bar of Lower Canada.

36. The Judges of the Court of Admiralty now receiving salaries shall be paid by the General Government.

37. The Judges of the Superior Courts shall hold their offices during good behaviour, and shall be removable only on the Address of both Houses of Parliament.

Local Government

38. For each of the Provinces there shall be an Executive Officer, styled the Lieutenant-Governor, who shall be appointed by the Governor General in Council, under the Great Seal of the Federated Provinces, during pleasure; such pleasure not to be exercised before the expiration of the first five years, except for cause, such cause to be communicated in writing to the Lieutenant-Governor immediately after the exercise of the pleasure as aforesaid, and also by Messages to both Houses of Parliament, within the first week of the first Session afterwards.

39. The Lieutenant-Governor of each Province shall be paid by the General Government.

40. In undertaking to pay the salaries of the Lieutenant-Governors, the Conference does not desire to prejudice the claim of Prince Edward Island upon the Imperial Government for the amount now paid for the salary of the Lieutenant-Governor thereof.

41. The Local Government and Legislature of each Province shall be constructed in such manner as the existing Legislature of such Province shall provide.

42. The Local Legislatures shall have power to alter or amend their Constitution from time to time.

43. The Local Legislatures shall have power to make Laws respecting the following subjects:

1. Direct Taxation and the imposition of Duties on the export of Timber, Logs, Masts, Spars, Deals, and Sawn Lumber, and of Coals and other Minerals.
2. Borrowing Money on the credit of the Province.
3. The establishment and tenure of Local Offices, and the appointment and payment of Local Officers.
4. Agriculture.
5. Immigration.

6. Education; saving the rights and privileges which the Protestant or Catholic minority in both Canadas may possess as to their Denominational Schools at the time when the Union goes into operation.
7. The sale and management of Public Lands, excepting Lands belonging to the General Government.
8. Sea Coast and Inland Fisheries.
9. The establishment, maintenance, and management of Penitentiaries, and of Public and Reformatory Prisons.
10. The establishment, maintenance, and management of Hospitals, Asylums, Charities, and Eleemosynary Institutions.
11. Municipal Institutions.
12. Shop, Saloon, Tavern, Auctioneer, and other Licences.
13. Local Works.
14. The Incorporation of private or local Companies, except such as relate to matters assigned to the General Parliament.
15. Property and civil rights, excepting those portions thereof assigned to the General Parliament.
16. Inflicting punishment by fine, penalties, imprisonment, or otherwise for the breach of laws passed in relation to any subject within their jurisdiction.
17. The Administration of Justice, including the constitution, maintenance, and organization of the Courts, both of Civil and Criminal Jurisdiction, and including also the Procedure in Civil Matters.
18. And generally all matters of a private or local nature, not assigned to the General Parliament.

44. The power of respiting, reprieving, and pardoning prisoners convicted of crimes, and of commuting and remitting of sentences in whole or in part, which belongs of right to the Crown, shall be administered by the Lieutenant-Governor of each Province in Council, subject to any instructions he may from time to time receive from the General Government, and subject to any provisions that may be made in this behalf by the General Parliament.

Miscellaneous

45. In regard to all subjects over which jurisdiction belongs to both the General and Local Legislatures, the laws of the General Parliament shall control and supersede those made by the Local Legislature, and the latter shall be void as far as they are repugnant to or inconsistent with the former.

46. Both the English and French languages may be employed in the General Parliament and in its proceedings, and in the Local Legislature of Lower Canada, and also in the Federal Courts and in the Courts of Lower Canada.

47. No lands or property belonging to the General or Local Government shall be liable to taxation.

48. All bills for appropriating any part of the public revenue, or for imposing any new tax or impost, shall originate

in the House of Commons or the House of Assembly, as the case may be.

49. The House of Commons or House of Assembly shall not originate or pass any vote, resolution, address, or bill for the appropriation of any part of the public revenue, or of any tax or impost to any purpose, not first recommended by Message of the Governor-General or the Lieutenant-Governor, as the case may be, during the session in which such vote, resolution, address, or bill is passed.

50. Any bill of the General Parliament may be reserved in the usual manner for Her Majesty's assent, and any bill of the Local Legislatures may in like manner be reserved for the consideration of the Governor-General.

51. Any bill passed by the General Parliament shall be subject to disallowance by Her Majesty within two years, as in the case of bills passed by the Legislatures of the said Provinces hitherto, and in like manner any bill passed by a Local Legislature shall be subject to disallowance by the Governor-General within one year after the passing thereof.

52. The seat of Government of the Federated Provinces shall be Ottawa, subject to the Royal Prerogative.

53. Subject to any future action of the respective Local Governments, the seat of the Local Government in Upper Canada shall be Toronto; of Lower Canada, Quebec; and the seats of the Local Governments in the other Provinces shall be as at present.

Property and Liabilities

54. All stocks, cash, bankers' balances, and securities for money belonging to each Province at the time of the Union, except as herein-after mentioned, shall belong to the General Government.

55. The following public works and property of each Province shall belong to the General Government, to wit:—

1. Canals;
2. Public harbours;
3. Lighthouses and piers;
4. Steamboats, dredges, and public vessels;
5. River and lake improvements;
6. Railway and railway stocks, mortgages, and other debts due by railway companies;
7. Military roads;
8. Custom houses, post offices, and other public buildings, except such as may be set aside by the General Government for the use of the Local Legislatures and Governments;
9. Property transferred by the Imperial Government, and known as Ordnance property;
10. Armouries, drill sheds, military clothing, and munitions of war; and
11. Lands set apart for public purposes.

56. All lands, mines, minerals, and royalties vested in Her Majesty in the Provinces of Upper Canada, Lower Canada, Nova Scotia, New Brunswick, and Prince Edward Island, for the use of such Provinces, shall belong to the Local Government of the territory in which the same are so situate; subject to any trusts that may exist in respect to any of such lands or to any interest of other persons in respect of the same.

57. All sums due from purchasers or lessees of such lands, mines, or minerals at the time of the Union shall also belong to the local Governments.

58. All assets connected with such portions of the public debt of any Province as are assumed by the Local Governments shall also belong to those Governments respectively.

59. The several Provinces shall retain all other public property therein subject to the right of the General Government to assume any lands or public property required for fortifications or the defence of the country.

60. The General Government shall assume all the debts and liabilities of each Province.

61. The debt of Canada not specially assumed by Upper and Lower Canada respectively, shall not exceed at the time of the Union..... \$62,500,000

Nova Scotia shall enter the Union with a debt not exceeding..... 8,000,000

And New Brunswick with a debt not exceeding..... 7,000,000

62. In case Nova Scotia or New Brunswick do not incur liabilities beyond those for which their Governments are now bound, and which shall make their debts at the date of Union less than \$8,000,000 and \$7,000,000 respectively, they shall be entitled to interest at 5 per cent. on the amount not so incurred, in like manner as is herein-after provided for Newfoundland and Prince Edward Island; the foregoing Resolution being in no respect intended to limit the powers given to the respective Governments of those Provinces by legislative authority, but only to limit the maximum amount of charge to be assumed by the General Government. Provided always, that the powers so conferred by the respective Legislatures shall be exercised within five years from this date, or the same shall then lapse.

63. Newfoundland and Prince Edward Island, not having incurred debts equal to those of the other Provinces, shall be entitled to receive by half-yearly payments in advance from the General Government the interest at five per cent. on the difference between the actual amount of their respective debts at the time of the Union, and the average amount of indebtedness per head of the population of Canada, Nova Scotia, and New Brunswick.

64. In consideration of the transfer to the General Parliament of the powers of taxation, an annual grant in aid of each Province shall be made, equal to 80 cents per head of the population, as established by the census of 1861, the population of Newfoundland being estimated at 130,000. Such aid shall be

in full settlement of all future demands upon the General Government for local purposes, and shall be paid half-yearly in advance to each Province.

65. The position of New Brunswick being such as to entail large immediate charges upon her local revenues, it is agreed that for the period of 10 years from the time when the Union takes effect an additional allowance of \$63,000 per annum shall be made to that Province. But that so long as the liability of that Province remains under \$7,000,000, a deduction equal to the interest on such deficiency shall be made from the \$63,000.

66. In consideration of the surrender to the General Government by Newfoundland of all its rights in mines and minerals, and of all the ungranted and unoccupied lands of the Crown, it is agreed that the sum of \$150,000 shall each year be paid to that Province, by semi-annual payments. Provided that that Colony shall retain the right of opening, constructing, and controlling roads and bridges through any of the said lands, subject to any laws which the General Parliament may pass in respect of the same.

67. All engagements that may before the Union be entered into with the Imperial Government for the defence of the country shall be assumed by the General Government.

68. The General Government shall secure without delay the completion of the Intercolonial Railway from Rivière-du-Loup through New Brunswick to Truro in Nova Scotia.

69. The communications with the North-western Territory and the improvements required for the development of the trade of the Great West with the Seaboard, are regarded by this Conference as subjects of the highest importance to the Federated Provinces, and shall be prosecuted at the earliest possible period that the state of the finances will permit.

70. The sanction of the Imperial and Local Parliaments shall be sought for the Union of the Provinces, on the principles adopted by the Conference.

71. That Her Majesty the Queen be solicited to determine the rank and name of the Federated Provinces.

72. The proceedings of the Conference shall be authenticated by the signatures of the Delegates, and submitted by each Delegation to its own Government, and the Chairman is authorized to submit a copy to the Governor General for transmission to the Secretary of State for the Colonies.

I certify that the above is a true copy of the original Report of Resolutions adopted in Conference.

E. P. TACHE,
Chairman.

II.—LONDON RESOLUTIONS.⁽²⁴⁾

Resolutions adopted at a Conference of Delegates from the Provinces of Canada, Nova Scotia, and New Brunswick, held at the Westminster Palace Hotel, London, December 4, 1866.

1. The best interests and present and future prosperity of British North America will be promoted by a Federal Union under the Crown of Great Britain, provided such Union can be effected on principles just to the several provinces.

2. In the Confederation of the British North American provinces the system of government best adapted under existing circumstances to protect the diversified interests of the several provinces and secure efficiency, harmony, and permanency in the working of the Union is a General Government charged with matters of common interest to the whole country and Local Governments for each of the Canadas, and for the provinces of Nova Scotia and New Brunswick, charged with the control of local matters in their respective sections, provision being made for the admission into the Confederation on equitable terms of Newfoundland, Prince Edward Island, the Northwest Territory, and British Columbia.

3. In framing a Constitution for the General Government the Conference, with a view to the perpetuation of the connexion with the mother country, and the promotion of the best interests of the people of these Provinces, desire to follow the model of the British Constitution so far as circumstances will permit.

4. The Executive Authority or Government shall be vested in the Sovereign of the United Kingdom of Great Britain and Ireland, and be administered according to the well-understood principles of the British Constitution by the Sovereign personally, or by the representative of the Sovereign duly authorized.

5. The Sovereign shall be Commander-in-Chief of the Land and Naval Militia Forces.

6. There shall be a General Legislature or Parliament for the Confederation, composed of the Sovereign, a Legislative Council, and a House of Commons.

7. For the purpose of forming the Legislative Council the Confederation shall be considered as consisting of three divi-

⁽²⁴⁾ For a discussion of the London Resolutions *see*

Note *re* London Conference (1866-67).

Note *re* Proceedings of London Conference (1866-67).

Detailed Comparison Quebec-London Resolutions.

Detailed Comparison London Resolutions—B.N.A. Act.

Concordance B.N.A. Act—London Resolutions and Drafts.

By W. F. O'Connor "*Report to the Speaker of the Senate, 1939*," pages 57 to 121 of Annex No. 4.

sions:—1st, Upper Canada; 2nd, Lower Canada, and 3rd, Nova Scotia and New Brunswick; each division with an equal representation in the Legislative Council.

8. Upper Canada shall be represented in the Legislative Council by 24 members, Lower Canada by 24 members, and the Maritime Provinces by 24 members, of which Nova Scotia shall have twelve and New Brunswick twelve members.

9. The Colony of Prince Edward Island when admitted into the Confederation shall be entitled to a representation of four members in the Legislative Council. But in such case the members allotted to Nova Scotia and New Brunswick shall be diminished to 10 each, such diminution to take place in each province as vacancies occur.

10. The Colony of Newfoundland when admitted into the Confederation shall be entitled to a representation in the Legislative Council of four members.

11. The North-west Territory and British Columbia shall be admitted into the Union on such terms and conditions as the Parliament of the Confederation shall deem equitable and as shall receive the assent of the Sovereign, and in case of the Province of British Columbia as shall be agreed to by the Legislature of such Province.

12. The members of the Legislative Council shall be appointed by the Crown under the Great Seal of the General Government from among residents of the Province for which they are severally appointed, and shall hold office during life. If any legislative Councillor shall for two consecutive sessions of Parliament fail to give his attendance in the said Council his seat shall thereby become vacant.

13. The members of the Legislative Council shall be British subjects by birth or naturalization, of the full age of 30 years, shall each possess in the province for which they are appointed a continuous real property qualification of 4,000 dollars over and above all incumbrances, and shall be and continue worth that sum over and above their debts and liabilities, and shall possess a continuous residence in the province for which they are appointed, except in the case of persons holding positions which require their attendance at the seat of Government pending their tenure of office.

14. If any question shall arise as to the qualification of a legislative councillor, the same shall be determined by the Legislative Council.

15. The members of the Legislative Council for the Confederation shall in the first instance be appointed upon the nomination of the Executive Governments of Canada, Nova Scotia and New Brunswick respectively, and the number allotted to each Province shall be nominated from the Legislative Councils of the different Provinces, due regard being had to the fair representation of both political parties; but in case any member of the Local Council, so nominated, shall decline to accept it, it shall be competent for the Executive Government in any Province to nominate in his place a person who is not a member of the Local Council.

16. The Speaker of the Legislative Council (unless otherwise provided by Parliament) shall be appointed by the Crown from among the members of the Legislative Council, and shall hold office during pleasure, and shall only be entitled to a casting vote on an equality of votes.

17. Each of the twenty-four Legislative Councillors, representing Lower Canada, in the Legislative Council of the General Legislature shall be appointed to represent one of the twenty-four electoral divisions mentioned in Schedule A of Chapter 1, of the Consolidated Statutes of Canada, and such councillor shall reside or possess his qualification in the division he is appointed to represent.

18. The basis of representation in the House of Commons shall be population, as determined by the official census every ten years, and the number of members, at first, shall be 181, distributed as follows:—

Upper Canada.....	82
Lower Canada.....	65
Nova Scotia.....	19
New Brunswick.....	15

19. Until the first general election after the official census of 1871 has been made up there shall be no change in the number of representatives from the several sections.

20. Immediately after the completion of the census of 1871, and immediately after every decennial census thereafter, the representation from each Province in the House of Commons shall be re-adjusted on the basis of population, such re-adjustment to take effect upon the termination of the then existing Parliament.

21. For the purpose of such re-adjustments, Lower Canada shall always be assigned 65 members, and each of the other Provinces shall, at each re-adjustment, receive for the ten years then next succeeding the number of members to which it will be entitled on the same ratio of representation to population as Lower Canada will enjoy according to the census then last taken by having 65 members.

22. No reduction shall be made in the number of members returned by any Province unless its population shall have decreased relatively to the population of the whole Union, to the extent of 5 per centum.

23. In computing at each decennial period the number of members to which each Province is entitled, no fractional parts shall be considered, unless when exceeding one-half the number entitling to a member, in which case a member shall be given for each such fractional part.

24. The number of members may at any time be increased by the General Parliament, regard being had to the proportionate rights then existing.

25. Until provisions are made by the General Parliament, all the laws which at the date of the proclamation constituting the Union are in force in the Provinces respectively, relating

to the qualification and disqualification of any person to be elected, or to sit or vote as a member of the Assembly in the said Provinces respectively, and relating to the qualification or disqualification of voters, and to the oaths to be taken by voters, and to returning officers and their powers and duties, and relating to the proceedings at elections and to the period during which such elections may be continued, and relating to the trial of controverted elections and the proceedings incident thereto and relating to the vacating of seats of members and to the issuing and execution of new writs in case of any seat being vacated otherwise than by a dissolution, shall respectively apply to elections of members to serve in the House of Commons, for places situate in those Provinces respectively.

26. Every House of Commons shall continue for five years from the day of the return of the writs choosing the same, and no longer; subject, nevertheless, to be sooner prorogued or dissolved by the Governor General.

27. There shall be a session of the General Parliament once at least in every year, so that a period of twelve calendar months shall not intervene between the last sitting of the General Parliament in one session and the first sitting thereof in the next session.

28. The General Parliament shall have power to make laws for the peace, welfare, and good government of the Confederation (saving the sovereignty of England), and especially laws respecting the following subjects:—

- (1) The public debt and property.
- (2) The regulation of trade and commerce.
- (3) The raising of money by all or any mode or system of taxation.
- (4) The borrowing of money on the public credit.
- (5) Postal service.
- (6) Lines of steam or other ships, railways, canals, and other works connecting any two or more of the Provinces together, or extending beyond the limits of any Province.
- (7) Lines of steam ships between the Confederated Provinces and other countries.
- (8) Telegraphic communication and the incorporation of telegraph companies.
- (9) All such works as shall, although lying wholly within any Province, be specially declared by the Acts authorizing them to be for the general advantage.
- (10) The census and statistics.
- (11) Militia, military and naval service and defence.
- (12) Beacons, buoys, lighthouses, and Sable Island.
- (13) Navigation and shipping.
- (14) Quarantine.
- (15) Sea coast and inland fisheries.
- (16) Ferries between any Province and a foreign country, or between any two Provinces.

- (17) Currency and coinage.
- (18) Banking, incorporation of banks, and the issue of paper money.
- (19) Savings banks.
- (20) Weights and measures.
- (21) Bills of exchange and promissory notes.
- (22) Interest.
- (23) Legal tender.
- (24) Bankruptcy and insolvency.
- (25) Patents of invention and discovery.
- (26) Copyrights.
- (27) Indians, and lands reserved for the Indians.
- (28) Naturalization and aliens.
- (29) Marriage and divorce.
- (30) The criminal law, excepting the constitution of Courts of Criminal Jurisdiction, but including the procedure in criminal matters.
- (31) The establishment, maintenance, and management of penitentiaries.
- (32) Rendering uniform all or any of the laws relative to property and civil rights in Upper Canada, Nova Scotia, and New Brunswick, and rendering uniform the procedure of all or any of the Courts in these Provinces; but any statute for this purpose shall have no force or authority in any Province until sanctioned by the Legislature thereof; and the power of repealing, amending, or altering such laws shall henceforward remain with the General Parliament only.
- (33) The establishment of a General Court of Appeal for the Confederation.
- (34) Immigration.
- (35) Agriculture.
- (36) And generally respecting all matters of a general character not specially and exclusively reserved for the Local Legislatures.

29. The General Government and Parliament shall have all powers necessary or proper for performing the obligations of the Confederation, as part of the British Empire, to Foreign countries arising under treaties between Great Britain and such countries.

30. The powers and privileges of the House of Commons of the United Kingdom of Great Britain and Ireland shall be held to appertain to the House of Commons of the Confederation, and the powers and privileges appertaining to the House of Lords in its legislative capacity shall be held to appertain to the Legislative Council.

31. The General Parliament may from time to time establish additional courts, and the General Government may appoint judges and officers thereof, when the same shall appear necessary or for the public advantage, in order to the due execution of the laws of such Parliament.

32. All Courts, judges and officers of the several Provinces shall aid, assist, and obey the General Government in the exercise of its rights and powers, and for such purposes shall be held to be courts, judges, and officers of the General Government.

33. The General Government shall appoint and pay the salaries of the judges of the superior and district and county Courts in each Province, and Parliament shall fix their salaries.

34. Until the consolidation of the laws of Upper Canada, Nova Scotia, and New Brunswick, the judges of these Provinces appointed by the General Government shall be selected from their respective bars.

35. The judges of the courts of Lower Canada shall be selected from the bar of Lower Canada.

36. The judges of the Court of Admiralty shall be paid by the General Government.

37. The judges of the Superior Courts shall hold their offices during good behaviour, and shall be removable on the address of both Houses of Parliament.

38. For each of the Provinces there shall be an executive officer styled the Governor, who shall be appointed by the Governor-General in Council, under the Great Seal of the Confederation, during pleasure; such pleasure not to be exercised before the expiration of the first five years except for cause, such cause to be communicated in writing to the Governor immediately after the exercise of the pleasure as aforesaid, and also by message to both Houses of Parliament within the first week of the first session afterwards, but the appointment of the first Governors shall be provisional and they shall hold office strictly during pleasure.

39. The Governor of each Province shall be paid by the General Government.

40. The Local Government and Legislature of each Province shall be constructed in such manner as the Legislature of each such Province shall provide.

41. The Local Legislature shall have power to make laws respecting the following subjects:—

- (1) The altering or amending their constitution from time to time.
- (2) Direct taxation, and in the case of New Brunswick the right of levying timber dues by the mode and to the extent now established by law, provided such timber is not the produce of the other Provinces.
- (3) Borrowing money on the credit of the Province.
- (4) The establishment and tenure of local offices, and the appointment and payment of local officers.
- (5) Agriculture.
- (6) Immigration.
- (7) Education, saving the rights and privileges which the Protestant or Catholic minority in any Province may have by law as to denominational schools at the time

when the Union goes into operation. And in any Province where a system of separate or dissentient schools by law obtains, or where the Local Legislation may hereafter adopt a system of separate or dissentient schools, an appeal shall lie to the Governor-General in Council of the General Government, from the acts and decisions of the local authorities, which may affect the rights or privileges of the Protestant or Catholic minority in the matter of education. And the General Parliament shall have power in the last resort to legislate on the subject.

- (8) The sale and management of public lands, excepting lands belonging to the General Government.
- (9) The establishment, maintenance, and management of public and reformatory prisons.
- (10) The establishment, maintenance, and management of hospitals, asylums, charities, and eleemosynary institutions, except marine hospitals.
- (11) Municipal institutions.
- (12) Shop, saloon, tavern, auctioneer, and other licences for local revenue.
- (13) Local works.
- (14) The incorporation of private or local companies, except such as relate to matters assigned to the General Parliament.
- (15) Property and civil rights (including the solemnization of marriage), excepting portions thereof assigned to the General Parliament.
- (16) Inflicting punishment by fine, penalties, imprisonment, or otherwise, for the breach of laws passed in relation to any subject within their jurisdiction.
- (17) The administration of justice, including the constitution, maintenance, and organization of the courts, both of civil and criminal jurisdiction, and including also the procedure in civil matters.
- (18) And generally all matters of a private or local nature not assigned to the General Parliament.

42. All the powers, privileges, and duties conferred and imposed upon Catholic separate schools and school trustees in Upper Canada, shall be extended to the Protestant and Catholic dissentient schools in Lower Canada.

43. The power of respiting, reprieving, and pardoning prisoners convicted of crimes, and of commuting and remitting of sentences, in whole or in part, which belongs of right to the Crown, shall, except in capital cases, be administered by the Governor of each Province in Council, subject to any instructions he may from time to time receive from the General Government, and subject to any provisions that may be made in this behalf by the General Parliament.

4. In regard to all subjects over which jurisdiction belongs to both the General and Local Legislatures, the laws of the General Parliament shall control and supersede those made by the Local Legislature, and the latter shall be void so far as they are repugnant to or inconsistent with the former.

45. Both the English and French languages may be employed in the General Parliament, and in its proceedings, and in the Local Legislature of Lower Canada, and also in the Federal courts, and in the courts of Lower Canada.

46. No lands or property belonging to the General or Local Governments shall be liable to taxation.

47. All Bills for appropriating any part of the public revenue, or for imposing any tax or impost, shall originate in the House of Commons or House of Assembly as the case may be.

48. The House of Commons or House of Assembly shall not originate or pass any vote, resolution, address, or Bill for the appropriation of any part of the public revenue, or of any tax or impost, to any purpose not first recommended by message of the Governor-General or the Governor, as the case may be, during the session in which such vote, resolution, address, or Bill is passed.

49. Any Bill of the General Parliament may be reserved in the usual manner for Her Majesty's assent, and any Bill of the Local Legislatures may, in like manner, be reserved for the consideration of the Governor-General.

50. Any Bill passed by the General Parliament shall be subject to disallowance by Her Majesty within two years, as in the case of Bills passed by the Legislatures of the said Provinces hitherto; and in like manner any Bill passed by a Local Legislature shall be subject to disallowance by the Governor-General within one year after the passing thereof.

51. The seat of Government of the Confederation shall be Ottawa, subject to the Royal Prerogative.

52. Subject to any future action of the respective Local Governments, the seat of the Local Governments in Upper Canada shall be Toronto; of Lower Canada Quebec; and the seats of the Local Governments of the other Provinces shall be as at present.

53. All stocks, cash, bankers' balances, and securities for money belonging to each Province at the time of the Union, except as herein-after mentioned, shall belong to the General Government.

54. The following public works and property of each Province shall belong to the General Government, to wit:—

- (1) Canals.
- (2) Public harbours.
- (3) Light-houses and piers, and Sable Island.
- (4) Steam-boats, dredges, and public vessels.
- (5) Rivers and lake improvements.
- (6) Railways and railway stocks, mortgages, and other debts due by railway companies.
- (7) Military roads.
- (8) Custom-houses, Post-offices, and all other public buildings, except such as may be set aside by the

General Government for the use of the Local Legislatures and Governments.

- (9) Property transferred by the Imperial Government and known as Ordnance property.
- (10) Armouries, drill-sheds, military clothing and munitions of war; and lands set apart for general public purposes.

55. All lands, mines, minerals, and royalties vested in Her Majesty in the Provinces of Upper Canada, Lower Canada, Nova Scotia, and New Brunswick, for the use of such Provinces, shall belong to the Local Government of the territory in which the same are so situate, subject to any trusts that may exist in respect of any such lands, or to any interest of other persons in respect of the same.

56. All sums due from purchasers or lessees of such lands, mines, or minerals at the time of the Union shall also belong to the Local Government.

57. All assets connected with such portions of the public debt of any Province as are assumed by the Local Governments, shall also belong to those Governments respectively.

58. The several Provinces shall retain all other public property therein subject to the right of the General Government to assume any lands or public property required for fortifications or the defence of the country.

59. The General Government shall assume the debts and liabilities of each Province.

60. The debt of Canada, not specially assumed by Upper and Lower Canada respectively shall not exceed at the time of the Union 62,500,000 dollars. Nova Scotia shall enter the Union with a debt not exceeding 8,000,000 dollars, and New Brunswick with a debt not exceeding 7,000,000 dollars. But this stipulation is in no respect intended to limit the powers given to the respective Governments of those Provinces by legislative authority, but only to determine the maximum amount of charge to be assumed by the General Government.

61. In case Nova Scotia or New Brunswick should not have contracted debts at the date of Union equal to the amount with which they are respectively entitled to enter the Confederation, they shall receive by half-yearly payments in advance from the General Government the interest at 5 per cent. on the difference between the actual amount of their respective debts and such stipulated amounts.

62. In consideration of the transfer to the General Parliament of the powers of taxation, the following sums shall be paid by the General Government to each Province for the support of their Local Governments and Legislatures:—

Upper Canada.....	\$ 80,000
Lower Canada.....	70,000
Nova Scotia.....	60,000
New Brunswick.....	50,000
<hr/>	
Total.....	\$260,000

And an annual grant in aid of each Province shall be made equal to 80 cents per head of the population, as established by the census of 1861; and in the case of Nova Scotia and New Brunswick by each subsequent decennial census, until the population of each of those Provinces shall amount to 400,000 souls, at which rate it shall thereafter remain. Such aid shall be in full settlement of all future demands upon the General Government for local purposes, and shall be paid half-yearly in advance to each Province; but the General Government shall deduct from such subsidy all sums paid as interest on the public debt of any Province in excess of the amount provided under the 60th resolution.

63. The position of New Brunswick being such as to entail large immediate charges upon her local revenues, it is agreed that for the period of ten years from the time when the Union takes effect an additional allowance of 63,000 dollars per annum shall be made to that Province; but that so long as the liability of that Province remains under 7,000,000 dollars, a deduction equal to the interest on such deficiency shall be made from the 63,000 dollars.

64. All engagements that may before the Union be entered into with the Imperial Government for the defence of the country shall be assumed by the General Government.

65. The construction of the Intercolonial Railway being essential to the consolidation of the Union of British North America, and to the assent of the Maritime Provinces thereto, it is agreed that provision be made for its immediate construction by the General Government, and that the Imperial guarantee for £3,000,000 sterling pledged for this work be applied thereto, so soon as the necessary authority has been obtained from the Imperial Parliament.

66. The communication with the North-western Territory, and the improvements required for the development of the trade of the great west with the seaboard, are regarded by this Conference as subjects of the highest importance to the Confederation, and shall be prosecuted at the earliest possible period that the state of the finances will permit.

67. The sanction of the Imperial Parliament shall be sought for the Union of the Provinces on the principles adopted by this Conference.

68. That Her Majesty the Queen be solicited to determine the rank and name of the Confederation.

69. That a copy of these resolutions, signed by the Chairman and Secretary of the Conference, be transmitted to the Right Honourable the Secretary of State for the Colonies.

(Signed) JOHN A. MACDONALD,
Chairman;

H. BERNARD,
Secretary.

PART II
BRITISH NORTH AMERICA ACT
AND AMENDMENTS

1867 - 1946

TOGETHER WITH OTHER ACTS RELATING TO THE
FORMATION AND ESTABLISHMENT
OF CONFEDERATION

AND WITH
THE STATUTE OF WESTMINSTER, 1931

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THE BRITISH NORTH AMERICA ACT, 1867 ⁽²⁵⁾

30-31 VICTORIA, CHAPTER 3

An Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for Purposes connected therewith.

[29th March, 1867.]

(Consolidation.)

WHEREAS the Provinces of Canada, Nova Scotia, and New Brunswick have expressed their Desire to be federally united into One Dominion under the Crown of the United Kingdom of Great Britain and Ireland⁽²⁶⁾, with a Constitution similar in Principle to that of the United Kingdom:

And whereas such a Union would conduce to the Welfare of the Provinces and promote the Interests of the British Empire:

And whereas on the Establishment of the Union by Authority of Parliament it is expedient, not only that the Constitution of the Legislative Authority in the Dominion be provided for, but also that the Nature of the Executive Government therein be declared:

And whereas it is expedient that Provision be made for the eventual admission into the Union of other Parts of British North America:

⁽²⁷⁾

I. PRELIMINARY.

1. This Act may be cited as the British North America Act, 1867. Short Title.

2. Repealed. See Note ⁽²⁸⁾ below.

NOTES:

⁽²⁵⁾“The B.N.A. Act, 1867, was drafted upon the basis of the London Resolutions of 1866-67 by the London Conference of delegates of the three provinces The Act, as a whole, is as much the work of the London Conference as any or all of the resolutions prepared in advance of it and for its purposes.” Report to the Speaker of the Senate (session of 1939) by the Parliamentary Counsel (W. F. O'Connor), Annex I, page 5.

⁽²⁶⁾ The Imperial Conference of 1926 unanimously recommended that His Majesty's title should be “George V, by the Grace of God, of Great Britain, Ireland and the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India.”

The *Royal and Parliamentary Titles Act, 1927*, which provided for the alteration of the Royal Style and Titles was assented to on the 12th of April, 1927 and in chapter 4 of the statutes of the U.K. of G.B. and Northern Ireland.

⁽²⁷⁾ The enacting clause was repealed by the Statute Law Revision Act, 1893, 56 Victoria, chapter 14, of the statutes of the United Kingdom of Great Britain and Ireland. It was as follows:—

“Be it therefore enacted and declared by the Queen's most Excellent Majesty, by and with the advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:”

⁽²⁸⁾ Section 2 was repealed by the Statute Law Revision Act of 1893 (chapter 14). It read as follows:—

“2. The provisions of this Act referring to Her Majesty the Queen extend also to the Heirs and Successors of Her Majesty, Kings and Queens of the United Kingdom of Great Britain and Ireland.”

Application of Provisions referring to the Queen.

II. UNION.

Declaration
of Union.

3. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, to declare by Proclamation that, on and after a Day therein appointed, not being more than Six Months after the passing of this Act, the Provinces of Canada, of Nova Scotia, and New Brunswick shall form and be One Dominion under the name of Canada; and on and after that Day those Three Provinces shall form and be One Dominion under that Name accordingly.

4. unless it is otherwise expressed or implied, the Name Canada shall be taken to mean Canada as constituted under this Act.⁽²⁹⁾

Four Pro-
vinces.

5. Canada shall be divided into Four Provinces, named Ontario, Quebec, Nova Scotia, and New Brunswick.⁽³⁰⁾

Provinces of
Ontario and
Quebec.

6. The Parts of the Province of Canada (as it exists at the passing of this Act) which formerly constituted respectively the Provinces of Upper Canada and Lower Canada shall be deemed to be severed, and shall form two separate Provinces. The Part which formerly constituted the Province of Upper Canada shall constitute the Province of Ontario; and the Part which formerly constituted the Province of Lower Canada shall constitute the Province of Quebec.

Provinces of
Nova Scotia
and New
Brunswick.
Decennial
Census.

7. The Provinces of Nova Scotia and New Brunswick shall have the same Limits as at the passing of this Act.

8. In the general Census of the population of Canada which is hereby required to be taken in the Year One thousand eight hundred and seventy-one, and in every Tenth Year thereafter, the respective Populations of the Four Provinces shall be distinguished.

⁽²⁹⁾ Part of section 4 was repealed by the *Statute Law Revision Act of 1893* (chapter 14). The lines repealed read as follows:—

Construction
of subsequent
Provision
of Act.

“4. *The subsequent provisions of this Act, shall unless it is otherwise expressed or implied, commence and have effect on and after the Union, that is to say, on and after the Day appointed for the Union taking effect in the Queen's Proclamation: and in the same Provisions,*”

⁽³⁰⁾ The Province of Manitoba was formed and representation granted to it in the Senate and in the House of Commons by *The Rupert's Land Act, 1868* (31-32 Vict., c. 105 (U.K.)) and *The Manitoba Act, 1870* (33 Vict., c. 3 (Canada)).

The Province of British Columbia became part of the Union and was admitted to Confederation by order of Her Majesty Queen Victoria in Council dated the 16th day of May, 1871.

The power to establish additional Provinces in the Dominion was conferred by *The British North America Act, 1871* (34-35 Vict., c. 28).

Prince Edward Island was admitted to the Union by order of Her Majesty in Council 1873.

The Provinces of Alberta and Saskatchewan were respectively established by 4-5 Edw. VII, cc. 3 and 42 (Canada).

Provision was made by these Orders in Council and Statutes for the representation of the various Provinces admitted, in the Senate and in the House of Commons of Canada.

III. EXECUTIVE POWER.

9. The Executive Government and authority of and over Canada is hereby declared to continue and be vested in the Queen.

Declaration of Executive Power in the Queen.

10. The Provisions of this Act referring to the Governor General extend and apply to the Governor General for the Time being of Canada, or other the Chief Executive Officer or Administrator for the time being carrying on the Government of Canada on behalf and in the name of the Queen, by whatever Title he is designated.⁽³¹⁾

Application of Provisions referring to Governor General.

11. There shall be a Council to aid and advise in the Government of Canada, to be styled the Queen's Privy Council for Canada; and the Persons who are to be Members of that Council shall be from Time to Time chosen and summoned by the Governor General and sworn in as Privy Councillors, and Members thereof may be from Time to Time removed by the Governor General.

Constitution of Privy Council for Canada.

12. All Powers, Authorities, and Functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, are at the Union vested in or exercisable by the respective Governors or Lieutenant Governors of those Provinces, with the Advice, or with the Advice and Consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any Number of Members thereof, or by those Governors or Lieutenant-Governors individually, shall, as far as the same continue in existence and capable of being exercised after the Union in relation to the Government of Canada, be vested in and exercisable by the Governor General, with the Advice or with the Advice and Consent of or in conjunction with the Queen's Privy Council for Canada, or any Members thereof, or by the Governor General individually, as the case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be abolished or altered by the Parliament of Canada.

All Powers under Acts to be exercised by Governor General with advice of Privy Council or alone.

13. The Provisions of this Act referring to the Governor General in Council shall be construed as referring to the Governor General acting by and with the Advice of the Queen's Privy Council for Canada.

Application of Provisions referring to Governor General in Council.

14. It shall be lawful for the Queen, if Her Majesty thinks fit, to authorize the Governor General from Time to Time to appoint any Person or any Persons jointly or severally to be his Deputy or Deputies within any Part or Parts of Canada, and in that Capacity to exercise during the Pleasure

Power to Her Majesty to authorize Governor General to appoint Deputies.

⁽³¹⁾ The position of Governor General was defined in the Report of the Imperial Conference of 1926 (page 14) and the Report of the Conference of 1930 provided for the constitutional practice *in re* responsibility, communications, manner and instruments of appointment (pages 26 and 27).

of the Governor General such of the Powers, Authorities, and Functions of the Governor General as the Governor General deems it necessary or expedient to assign to him or them, subject to any Limitations or Directions expressed or given by the Queen; but the Appointment of such a Deputy or Deputies shall not affect the Exercise by the Governor General himself of any Power, Authority, or Function.

Command of
Armed
Forces to
continue to
be vested in
the Queen.

15. The Commander-in-Chief of the Land and Naval Militia, and of all Naval and Military Forces, of and in Canada, is hereby declared to continue and be vested in the Queen.

Seat of
Government.
of Canada.

16. Until the Queen otherwise directs the Seat of Government of Canada shall be Ottawa.

IV. LEGISLATIVE POWER.

Constitution
of Parlia-
ment of
Canada.

17. There shall be One Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons.

Privileges,
etc., of
Houses.

Rep. and
new 1875
38-39 Vict.
c. 38, s. 1.

18. The privileges, immunities, and powers to be held, enjoyed and exercised by the Senate and by the House of Commons, and by the Members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities, and powers shall not confer any privileges, immunities, or powers exceeding those at the passing of such Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the Members thereof.⁽³²⁾

First Session
of the Par-
liament of
Canada.

19. The Parliament of Canada shall be called together not later than Six Months after the Union.

Yearly Ses-
sion of the
Parliament
of Canada.

20. There shall be a Session of the Parliament of Canada once at least in every Year, so that Twelve Months shall not intervene between the last Sitting of the Parliament in one Session and its first Sitting in the next Session.

⁽³²⁾ Section 18 dealing with the privileges, immunities, etc., of both Houses was repealed on 1875 and section 18 above was substituted therefor. The repealed section formerly read as follows:—

“Privileges,
etc. of
Houses.”

“18. *The Privileges, Immunities, and Powers to be held, enjoyed, and exercised by the Senate and by the House of Commons and by the Members thereof respectively shall be such as are from Time to Time defined by Act of the Parliament of Canada, but so that the same shall never exceed those at the passing of this Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland and by the Members thereof.*”

See also section 4 of the Senate and House of Commons Act, R.S., 1927, chapter 147 in Part V of this volume.

The Senate.

21. The Senate shall, subject to the Provisions of this Act, consist of Seventy-two Members, who shall be styled Senators.⁽³³⁾

Number of
Senators.

22. In relation to the Constitution of the Senate, Canada shall be deemed to consist of Three Divisions:

Representa-
tion of Pro-
vinces in
Senate.

1. Ontario;

2. Quebec;

3. The Maritime Provinces, Nova Scotia and New Brunswick; which Three Divisions shall (subject to the Provisions of this Act) be equally represented in the Senate as follows: Ontario by Twenty-four Senators; Quebec by Twenty-four Senators; and the Maritime Provinces by Twenty-four Senators, Twelve thereof representing Nova Scotia, and Twelve thereof representing New Brunswick.

In the case of Quebec each of the Twenty-four Senators representing that Province shall be appointed for One of the Twenty-four Electoral Divisions of Lower Canada specified in Schedule A. to Chapter One of the Consolidated Statutes of Canada.⁽³⁴⁾

23. The Qualification of a Senator shall be as follows:

Qualifica-
tions of
Senator.

(1) He shall be of the full age of Thirty Years:

⁽³³⁾ The number of senators has now been increased to 96 but it is provided that the number shall not at any time exceed one hundred and four.

This was done by the *British North America Act, 1915* (5-6 George V, chapter 45). See this Act for further information, at page 83.

Subparagraphs (i) and (v) of subsection one of section one of the said Act read as follows:—

“(i) The number of Senators provided for under section twenty-one of the *British North America Act, 1867*, is increased from seventy-two to ninety-six.”

“(v) The number of Senators shall not at any time exceed one hundred and four.”

⁽³⁴⁾ The senate now includes representatives of Prince Edward Island and also a fourth division comprising the western provinces of Manitoba, British Columbia, Alberta and Saskatchewan.

Subparagraph (ii) of subsection one of section one of the amending Act of 1915 reads as follows:—

“(ii) The Divisions of Canada in relation to the constitution of the Senate provided for by section twenty-two of the said Act are increased from three to four, the Fourth Division to comprise the Western Provinces of Manitoba, British Columbia, Saskatchewan, and Alberta, which four Divisions shall (subject to the provisions of the said Act and of this Act) be equally represented in the Senate, as follows:—Ontario by twenty-four senators; Quebec by twenty-four senators; the Maritime Provinces and Prince Edward Island by twenty-

- (2) He shall be either a Natural-born Subject of the Queen, or a Subject of the Queen naturalized by an Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of One of the Provinces of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, before the Union, or of the Parliament of Canada, after the Union;
- (3) He shall be legally or equitably seised as of Freehold for his own Use and Benefit of Lands or Tenements held in free and common Socage, or seised or possessed for his own Use and Benefit of Lands or Tenements held in Franc-alieu or in Roture, within the Province for which he is appointed, of the Value of Four thousand Dollars, over and above all Rents, Dues, Debts, Charges, Mortgages, and Incumbrances due or payable out of or charged on or affecting the same:
- (4) His Real and Personal Property shall be together worth Four thousand Dollars over and above his Debts and Liabilities:
- (5) He shall be resident in the Province for which he is appointed:
- (6) In the case of Quebec he shall have his Real Property Qualification in the Electoral Division for which he is appointed, or shall be resident in that Division.

Summons of
Senator.

24. The Governor General shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of Canada, summon qualified Persons to the Senate; and, subject to the Provisions of this Act, every Person so summoned shall become and be a Member of the Senate and a Senator.

25. Repealed. *See Note* ⁽³⁵⁾ *below:—*

Addition of
Senators in
certain cases.

26. If at any Time on the Recommendation of the Governor General the Queen thinks fit to direct that Three or

four senators, ten thereof representing Nova Scotia, ten thereof representing New Brunswick, and four thereof representing Prince Edward Island; the Western Provinces by twenty-four senators, six thereof representing Manitoba, six thereof representing British Columbia, six thereof representing Saskatchewan, and six thereof representing Alberta."

The Parliament of Canada may provide for representation in the Senate and in the House of Commons of any territories which are not in any province. *See B.N.A. Act, 1886. (49-50 Vict., ch. 35).*

⁽³⁵⁾ Section 25 was repealed by the Statute Law Revision Act of 1893, chapter 14 (56 Victoria, ch. 14). It read as follows:—

Summons of
First Body
of Senators

"25. *Such Persons shall be first summoned to the Senate as the Queen by Warrant under Her Majesty's Royal Sign Manual thinks fit to approve, and their Names shall be inserted in the Queen's Proclamation of Union."*

Six Members be added to the Senate, the Governor General may by Summons to *Three or Six* qualified Persons (as the Case may be), representing equally the *Three* Divisions of Canada, add to the Senate accordingly.⁽³⁶⁾

27. In case of such Addition being at any Time made the Governor General shall not summon any Person to the Senate, except on a further like Direction by the Queen on the like Recommendation, until each of the *Three* Divisions of Canada is represented by Twenty-four Senators and no more.⁽³⁷⁾

Reduction of Senate to normal number.

28. The Number of Senators shall not at any Time exceed *Seventy-eight*.⁽³⁸⁾

Maximum number of Senators.

29. A Senator shall, subject to the Provisions of this Act, hold his Place in the Senate for Life.

Tenure of Place in Senate.

30. A Senator may by Writing under his Hand addressed to the Governor General resign his Place in the Senate, and thereupon the same shall be vacant.

Resignation of Place in Senate.

31. The Place of a Senator shall become vacant in any of the following Cases:—

Disqualification of Senators.

⁽³⁶⁾ The number of persons who may be summoned to the Senate has been increased from three or six to four or eight representing equally the four divisions of Canada.

See section one of the British North America Act of 1915 (5-6 George V, chapter 45), subparagraph (iii) of section one of which reads as follows:—

“(iii) *The number of persons whom by section twenty-six of the said Act the Governor General of Canada may, upon the direction of His Majesty the King, add to the Senate is increased from three or six to four or eight, representing equally the four divisions of Canada.*”

⁽³⁷⁾ The Act of 1915, above mentioned, supersedes this section by the enactment of subparagraph (iv) of section one which reads as follows:—

“(iv) *In case of such addition being at any time made the Governor General of Canada shall not summon any person to the Senate except upon a further like direction by His Majesty the King on the like recommendation to represent one of the four Divisions until such Division is represented by twenty-four senators and no more.*”

⁽³⁸⁾ Subparagraph (v) of subsection one of section one of the B.N.A. Act of 1915 which supersedes section 28 reads as follows:—

“(v) The number of Senators shall not at any time exceed one hundred and four.”

See also note to section 147. It is provided in the Act of 1915 that in the case of the admission of Newfoundland to the Union that “*the normal number of Senators shall be one hundred and two, and their maximum number one hundred and ten.*”

- (1) If for Two consecutive Sessions of the Parliament he fails to give his Attendance in the Senate:
- (2) If he takes an Oath or makes a Declaration or Acknowledgment of Allegiance, Obedience, or Adherence to a Foreign Power, or does an Act whereby he becomes a Subject or Citizen, or entitled to the Rights or Privileges of a Subject or Citizen, of a Foreign Power:
- (3) If he is adjudged Bankrupt or Insolvent, or applies for the Benefit of any Law relating to Insolvent Debtors, or becomes a public Defaulter:
- (4) If he is attainted of Treason or convicted of Felony or of any infamous Crime:
- (5) If he ceases to be qualified in respect of Property or of Residence; provided, that a Senator shall not be deemed to have ceased to be qualified in respect of Residence by reason only of his residing at the Seat of the Government of Canada while holding an Office under that Government requiring his Presence there.

Summons on
Vacancy in
Senate.

32. When a vacancy happens in the Senate by Resignation, Death, or otherwise, the Governor General shall by Summons to a fit and qualified Person fill the Vacancy.

Questions as
to Qualifica-
tions and
Vacancies in
Senate.

33. If any Question arises respecting the Qualification of a Senator or a Vacancy in the Senate the same shall be heard and determined by the Senate.

Appoint-
ment of
Speaker of
Senate.

34. The Governor General may from Time to Time, by Instrument under the Great Seal of Canada, appoint a Senator to be Speaker of the Senate, and may remove him and appoint another in his Stead.

Quorum of
Senate.

35. Until the Parliament of Canada otherwise provides, the Presence of at least Fifteen Senators, including the Speaker, shall be necessary to constitute a Meeting of the Senate for the Exercise of its Powers.

Voting in
Senate.

36. Questions arising in the Senate shall be decided by a Majority of Voices, and the Speaker shall in all Cases have a Vote, and when the Voices are equal the Decision shall be deemed to be in the Negative.

The House of Commons.⁽³⁹⁾

Constitution
of House of
Commons in
Canada.

37. The House of Commons shall, subject to the Provisions of this Act, consist of One hundred and eighty-one Members, of whom Eighty-two shall be elected for Ontario, Sixty-five for Quebec, Nineteen for Nova Scotia, and Fifteen for New Brunswick.⁽⁴⁰⁾

⁽³⁹⁾ See the last lines of note 34.

⁽⁴⁰⁾ These numbers have been considerably altered under section 51 of this Act, and new members added to represent Manitoba, British Columbia, Prince Edward Island, Alberta, Saskatchewan and the Yukon Territory.

See the British North America Acts of 1871 (ch. 28) and of 1886 (ch. 35).

See also chapter 71 of the Statutes of Canada, 1947 for the present representation in the House of Commons.

38. The Governor General shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of Canada, summon and call together the House of Commons.

Summon-
ing of House
of Commons.

39. A Senator shall not be capable of being elected or of sitting or voting as a Member of the House of Commons.

Senators not
to sit in
House of
Commons.

40. Until the Parliament of Canada otherwise provides, Ontario, Quebec, Nova Scotia, and New Brunswick shall, for the Purposes of the Election of Members to serve in the House of Commons, be divided into Electoral Districts as follows:—⁽⁴¹⁾

Electoral
districts
of the four
Provinces.

1. Ontario.

Ontario shall be divided into the Counties, Ridings of Counties, Cities, Parts of Cities, and Towns enumerated in the First Schedule to this Act, each whereof shall be an Electoral District, each such District as numbered in that Schedule being entitled to return One Member.

2. Quebec.

Quebec shall be divided into Sixty-five Electoral Districts, composed of the Sixty-five Electoral Divisions into which Lower Canada is at the passing of this Act divided under Chapter Two of the Consolidated Statutes of Canada, Chapter Seventy-five of the Consolidated Statutes for Lower Canada, and the Act of the Province of Canada of the Twenty-third Year of the Queen, Chapter One, or any other Act amending the same in force at the Union, so that each such Electoral Division shall be for the Purposes of this Act an Electoral District entitled to return One Member.

3. Nova Scotia.

Each of the Eighteen Counties of Nova Scotia shall be an Electoral District. The County of Halifax shall be entitled to return Two Members, and each of the other Counties One Member.

4. New Brunswick.

Each of the Fourteen Counties into which New Brunswick is divided, including the City and County of St. John, shall be an Electoral District. The City of St. John shall also be a separate Electoral District. Each of those Fifteen Electoral Districts shall be entitled to return One Member.

41. Until the Parliament of Canada, otherwise provides, all Laws in force in the several Provinces at the Union relative to the following Matters or any of them, namely,—the Qualifications and Disqualifications of Persons to be elected or to sit or vote as Members of the House of Assembly or Legislative Assembly in

Continuance
of existing
Election
Laws until
Parliament
of Canada
otherwise
provides.

⁽⁴¹⁾ For the last readjustment of the representation in the House of Commons, see *The Representation Act, 1947*, chapter 71 of the Statutes of Canada, 1947.

the several Provinces, the Voters at Elections of such Members, the Oaths to be taken by Voters, the Returning Officers, their Powers and Duties, the Proceedings at Elections, the Periods during which Elections may be continued, the Trial of controverted Elections, and Proceedings incident thereto, the vacating of Seats of Members, and the Execution of new Writs in case of Seats vacated otherwise than by Dissolution, — shall respectively apply to Elections of Members to serve in the House of Commons for the same several Provinces.

Provided that, until the Parliament of Canada otherwise provides, at any Election for a Member of the House of Commons for the District of Algoma, in addition to Persons qualified by the Law of the Province of Canada to vote, every male British Subject, aged Twenty-one Years or upwards, being a Householder, shall have a Vote.⁽⁴²⁾

42. Repealed. See Note ⁽⁴³⁾ below.

43. Repealed. See Note ⁽⁴⁴⁾ below.

As to Election of Speaker of House of Commons.

44. The House of Commons on its first assembling after a General Election shall proceed with all practicable Speed to elect One of its Members to be Speaker.

As to filling up Vacancy in Office of Speaker.

45. In case of a Vacancy happening in the Office of Speaker by Death, Resignation, or otherwise, the House of Commons shall with all practicable Speed proceed to elect another of its Members to be Speaker.

⁽⁴²⁾ See *The Dominion Elections Act, 1938*, chapter 46 of the Statutes of Canada, 1938, for qualifications of voters at elections to the House of Commons.

⁽⁴³⁾ Section 42 was repealed by the Statute Law Revision Act of 1893 (56 Vict., ch. 14). It read as follows:—(See pp. 103-5).

“Writs for first Election.”

“42. For the First Election of Members to serve in the House of Commons the Governor General shall cause writs to be issued by such Person, in such Form, and addressed to such Returning Officers as he thinks fit.

The Person issuing writs under this Section shall have the like Powers as are possessed at the Union by the Officers charged with the issuing of Writs for the Election of Members to serve in the respective House of Assembly or Legislative Assembly of the Province of Canada, Nova Scotia, or New Brunswick; and the Returning Officers to whom Writs are directed under this Section shall have the like Powers as are possessed at the Union by the Officers charged with the returning of Writs for the Election of Members to serve in the same respective House of Assembly or Legislative Assembly.”

⁽⁴⁴⁾ Section 43 was repealed by the Statute Law Revision Act of 1893 and formerly read as follows:—(See pp. 103-5).

“As to casual Vacancies.”

“43. In case a Vacancy in the Representation in the House of Commons of any Electoral District happens before the Meeting of the Parliament, or after the Meeting of the Parliament before Provision is made by the Parliament in this Behalf, the Provisions of the last foregoing Section on this Act shall extend and apply to the issuing and returning of a Writ in respect of such Vacant District.”

46. The Speaker shall preside at all Meetings of the House of Commons. Speaker to preside.

47. Until the Parliament of Canada otherwise provides, in case of the Absence for any Reason of the Speaker from the Chair of the House of Commons for a period of Forty-eight consecutive Hours, the House may elect another of its Members to act as Speaker, and the Member so elected shall during the Continuance of such Absence of the Speaker have and execute all the Powers, Privileges, and Duties of Speaker. Provision in case of absence of Speaker.

48. The Presence of at least Twenty Members of the House of Commons shall be necessary to constitute a Meeting of the House for the Exercise of its Powers; and for that Purpose the Speaker shall be reckoned as a Member. Quorum of House of Commons.

49. Questions arising in the House of Commons shall be decided by a Majority of Voices other than that of the Speaker, and when the Voices are equal, but not otherwise, the Speaker shall have a Vote. Voting in House of Commons.

50. Every House of Commons shall continue for Five Years from the Day of the Return of the Writs for choosing the House (subject to be sooner dissolved by the Governor General), and no longer. Duration of House of Commons.

51.—(1) The number of members of the House of Commons shall be two hundred and fifty-five and the representation of the provinces therein shall forthwith upon the coming into force of this section and thereafter on the completion of each decennial census be readjusted by such authority, in such manner, and from such time as the Parliament of Canada from time to time provides, subject and according to the following rules:— New provision as to readjustment of representation in Commons. 30 & 31 Vict., c. 3.

1. Subject as hereinafter provided, there shall be assigned to each of the provinces a number of members computed by dividing the total population of the provinces by two hundred and fifty-four and by dividing the population of each province by the quotient so obtained, disregarding, except as hereinafter in this section provided, the remainder, if any, after the said process of division.

Rep. and new 1946
10 Geo. VI,
c. 63, s. 1.

2. If the total number of members assigned to all the provinces pursuant to rule one is less than two hundred and fifty-four, additional members shall be assigned to the provinces (one to a province) having remainders in the computation under rule one commencing with the province having the largest remainder and continuing with the other provinces in the order of the magnitude of their respective remainders until the total number of members assigned is two hundred and fifty-four.

3. Notwithstanding anything in this section, if upon completion of a computation under rules one and two, the number of members to be assigned to a province is less than the number of senators representing the said province, rules one and two shall cease to apply in respect of the said province, and there shall be assigned to the said province a number of members equal to the said number of senators.

4. In the event that rules one and two cease to apply in respect of a province then, for the purpose of computing the number of members to be assigned to the provinces in respect of which rules one and two continue to apply, the total population of the provinces shall be reduced by the number of the population of the province in respect of which rules one and two have ceased to apply and the number two hundred and fifty-four shall be reduced by the number of members assigned to such province pursuant to rule three.

5. Such readjustment shall not take effect until the termination of the then existing Parliament.

(2) The Yukon Territory as constituted by Chapter forty-one of the Statutes of Canada, 1901, together with any Part of Canada not comprised within a province which may from time to time be included therein by the Parliament of Canada for the purposes of representation in Parliament, shall be entitled to one member.⁽⁴⁵⁾

⁽⁴⁵⁾ This section is new. The British North America Act, 1946, by which it was enacted, was assented to on the 26th of July, 1946. For further comments, explanations and text of the Resolution of the Senate and House of Commons, see further in this Part: The British North America Act, 1946 at page 119.

Section 51, as amended by the Statute Law Revision Act, 1893, previously read as follows:—

“51. *On the Completion of each decennial Census, the Representation of the Four Provinces shall be readjusted by such Authority, in such Manner, and from such Time, as the Parliament of Canada from Time to Time provides, subject and according to the following Rules:—*

(1) *Quebec shall have the fixed number of Sixty-five Members:*

(2) *There shall be assigned to each of the other Provinces such a Number of Members as will bear the same Proportion to the Number of its Population (ascertained at such Census) as the Number Sixty-five bears to the Number of the Population of Quebec (so ascertained):*

(3) *In the Computation of the Number of Members for a Province a fractional Part not exceeding One Half the whole Number requisite for entitling the Province to a Member shall be disregarded; but a fractional Part exceeding One Half of that Number shall be equivalent to the whole Number:*

(4) *On any such Re-adjustment the Number of Members for a Province shall not be reduced unless the Proportion which the Number of the Population of the Province bore to the Number of the aggregate Population of Canada at the then last preceding Re-adjustment of the Number of Members for the Province is ascertained at the then latest Census to be diminished by One Twentieth Part or upwards:*

(5) *Such Re-adjustment shall not take effect until the Termination of the then existing Parliament.”*

51A. Notwithstanding anything in this Act a province shall always be entitled to a number of members in the House of Commons not less than the number of senators representing such province.⁽⁴⁶⁾

Constitution of House of Commons. Ad. 1915, 5-6 Geo. V, c. 45, s. 2.

52. The Number of Members of the House of Commons may be from Time to Time increased by the Parliament of Canada, provided the proportionate Representation of the Provinces prescribed by this Act is not thereby disturbed.

Increase of number of House of Commons.

Money Votes; Royal Assent.

53. Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.

Appropriation and tax Bills.

54. It shall not be lawful for the House of Commons to adopt or pass any Vote, Resolution, Address, or Bill for the Appropriation of any Part of the Public Revenue, or of any Tax or Impost, to any Purpose that has not been first recommended to that House by Message of the Governor General in the Session in which such Vote, Resolution, Address, or Bill is proposed.

Recommendation of money votes.

55. Where a Bill passed by the Houses of Parliament is presented to the Governor General for the Queen's Assent, he shall declare, according to his Discretion, but subject to the Provisions of this Act and to Her Majesty's Instructions, either that he assents thereto in the Queen's Name, or that he withholds the Queen's Assent, or that he reserves the Bill for the Signification of the Queen's Pleasure.⁽⁴⁷⁾

Royal Assent to Bills, etc.

56. Where the Governor General assents to a Bill in the Queen's Name, he shall by the first convenient Opportunity send an authentic Copy of the Act to one of Her Majesty's Principal Secretaries of State, and if the Queen in Council within Two Years after Receipt thereof by the Secretary of State thinks fit to disallow the Act, such Disallowance (with a Certificate of the Secretary of State of the Day on which the Act was received by him) being signified by the Governor General, by Speech or Message to each of the Houses of the Parliament or by Proclamation, shall annul the Act from and after the Day of such Signification.⁽⁴⁸⁾

Disallowance by order in Council of Act assented to by Governor General.

⁽⁴⁶⁾ Section 51A was added to the Act of 1867 by the British North America Act of 1915 (5-6 George V, chapter 45, section 2).

⁽⁴⁷⁾ The Conference on the Operation of Dominion Legislation, etc., held in London in 1929 "applying the principles laid down in the Imperial Conference Report of 1926," recommended that His Majesty's Government in the United Kingdom do not advise His Majesty to give the Governor General any instructions to reserve Bills presented to him for assent and that it would not be in accordance with constitutional practice for advice to be tendered to His Majesty against the views of the Government of the Dominion. "It is the right of the Government of each Dominion to advise the Crown in all matters relating to its own affairs." *Report of the Conference on the Operation of Dominion Legislation and Merchant Shipping Legislation, 1929* (p. 19).

The Imperial Conference of 1930 passed a resolution approving the Report of the Conference on the Operation of Dominion Legislation and it was stated that the said Report was to be regarded as forming part of the Report of the Conference of 1930. (See *Imperial Conference 1930, Summary of Proceedings, page 19.*)

⁽⁴⁸⁾ "The present constitutional position is that the power of disallowance can no longer be exercised in relation to Dominion legislation." *Report of the Conference on the Operation of Dominion Legislation, etc.* (p. 20).

Significa-
tion of
Queen's
pleasure on
Bill re-
served.

57. A Bill reserved for the Signification of the Queen's Pleasure shall not have any force unless and until within Two Years from the Day on which it was presented to the Governor General for the Queen's Assent, the Governor General signifies, by Speech or Message to each of the Houses of the Parliament or by Proclamation, that it has received the Assent of the Queen in Council.

An Entry of every such Speech, Message, or Proclamation shall be made in the Journal of each House, and a Duplicate thereof duly attested shall be delivered to the proper Officer to be kept among the Records of Canada.⁽⁴⁹⁾

V. PROVINCIAL CONSTITUTION.

Executive Power.

Appoint-
ment of
Lieutenant-
Governors of
Provinces.

58. For each Province there shall be an Officer, styled the Lieutenant-Governor, appointed by the Governor General in Council by Instrument under the Great Seal of Canada.⁽⁵⁰⁾

Tenure of
office of
Lieutenant
Governor.

59. A Lieutenant-Governor shall hold Office during the Pleasure of the Governor General; but any Lieutenant-Governor appointed after the Commencement of the First Session of the Parliament of Canada shall not be removable within Five Years from his Appointment, except for Cause assigned, which shall be communicated to him in Writing within One Month after the Order for his Removal is made, and shall be communicated by Message to the Senate and to the House of Commons within One Week thereafter if the Parliament is then sitting, and if not then within One Week after the Commencement of the next Session of the Parliament.

Salaries of
Lieutenant-
Governors.

60. The Salaries of the Lieutenant-Governors shall be fixed and provided by the Parliament of Canada.

Oaths, etc.,
of Lieu-
tenant-
Governor.

61. Every Lieutenant-Governor shall, before assuming the Duties of his Office, make and subscribe before the Governor General or some Person authorized by him, Oaths of Allegiance and Office similar to those taken by the Governor General.

Application
of provisions
referring to
Lieutenant-
Governor.

62. The Provisions of this Act referring to the Lieutenant-Governor extend and apply to the Lieutenant-Governor for the Time being of each Province or other the Chief Executive Officer or Administrator for the Time being carrying on the Government of the Province, by whatever Title he is designated.

⁽⁴⁹⁾ See Note ⁽⁴⁷⁾ to section 55.

⁽⁵⁰⁾ Section 92 of this Act states that in each province the Legislature may make laws, *inter alia*, in relation to:—

“1. *The Amendment from Time to Time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the Office of Lieutenant-Governor;*”

63. The Executive Council of Ontario and of Quebec shall be composed of such Persons as the Lieutenant-Governor from Time to Time thinks fit, and in the first instance of the following Officers, namely,—the Attorney-General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, within Quebec, the Speaker of the Legislative Council and the Solicitor General.⁽⁵¹⁾

Appoint-
ment of
Executive
Officers for
Ontario and
Quebec.

64. The Constitution of the Executive Authority in each of the Provinces of Nova Scotia and New Brunswick shall, subject to the Provisions of this Act, continue as it exists at the Union until altered under the Authority of this Act.⁽⁵²⁾

Executive
Government
of Nova
Scotia and
New Bruns-
wick.

65. All Powers, Authorities, and Functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, or Canada, were or are before or at the Union vested in or exercisable by the respective Governors or Lieutenant-Governors of those Provinces, with the Advice or with the Advice and Consent of the respective Executive Councils thereof, or in conjunction with those Councils, or with any Number of Members thereof, or by those Governors or Lieutenant-Governors individually, shall, as far as the same are capable of being exercised after the Union in relation to the Government of Ontario and Quebec respectively, be vested in and shall or may be exercised by the Lieutenant-Governor of Ontario and Quebec respectively, with the Advice or with the Advice and Consent of or in conjunction with the respective Executive Councils, or any Members thereof or by the Lieutenant-Governor individually, as the Case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland,) to be abolished or altered by the respective Legislatures of Ontario and Quebec.⁽⁵³⁾

Powers to be
exercised by
Lieutenant-
Governor of
Ontario or
Quebec with
advice or
alone.

66. The Provisions of this Act referring to the Lieutenant-Governor in Council shall be construed as referring to the Lieutenant-Governor of the Province acting by and with the Advice of the Executive Council thereof.

Application
of provisions
referring to
Lieutenant-
Governor in
Council.

67. The Governor General in Council may from Time to Time appoint an Administrator to execute the Office and Functions of Lieutenant-Governor during his Absence, Illness, or other Inability.

Administra-
tion in ab-
sence, etc., of
Governor.

⁽⁵¹⁾ For Ontario, *see* R.S.O., 1937, c. 14; 1944, c. 18; 1946, c. 26.

For Quebec, *see* R.S.Q., 1941, c. 7; 1942, c. 55; 1943, c. 39; 1944, c. 32; 1946, cc. 16, 21.

It was not necessary to provide for the Executive Councils of Nova Scotia and New Brunswick whose constitutions were to continue as they existed.

⁽⁵²⁾ For Nova Scotia, *see* 1945, c. 3; and 1946, c. 50 of the Statutes of N.S.

For New Brunswick, *see* R.S.N.B., 1927, c. 10; 1936, c. 10; 1944, c. 10; 1947, c. 19.

⁽⁵³⁾ No provision is made for the Maritimes for the reason mentioned in Note ⁽⁵¹⁾.

Seats of
Provincial
Govern-
ments.

68. Unless and until the Executive Government of any Province otherwise directs with respect to that Province, the Seats of Government of the Provinces shall be as follows, namely,—of Ontario, the City of Toronto; of Quebec, the City of Quebec; of Nova Scotia, the City of Halifax; and of New Brunswick, the City of Fredericton.

Legislative Power.⁽⁵⁴⁾

1. ONTARIO.

Legislature of
for Ontario.

69. There shall be a Legislature for Ontario consisting of the Lieutenant-Governor and of One House, styled the Legislative Assembly of Ontario.

Electoral
districts.

70. The Legislative Assembly of Ontario shall be composed of Eighty-two Members, to be elected to represent the Eighty-two Electoral Districts set forth in the First Schedule to this Act.⁽⁵⁵⁾

2. QUEBEC

Legislature
for Quebec.

71. There shall be a Legislature for Quebec consisting of the Lieutenant-Governor and of Two Houses, styled the Legislative Council of Quebec and the Legislative Assembly of Quebec.

Constitu-
tion of
Legislative
Council.

72. The Legislative Council of Quebec shall be composed of Twenty-four Members, to be appointed by the Lieutenant-Governor, in the Queen's Name, by Instrument under the Great Seal of Quebec, one being appointed to represent each of the Twenty-four Electoral Divisions of Lower Canada in this Act referred to, and each holding Office for the Term of his Life, unless the Legislature of Quebec otherwise provides under the Provisions of this Act.⁽⁵⁶⁾

Qualifica-
tion of
Legislative
Councillors.

73. The Qualifications of the Legislative Councillors of Quebec shall be the same as those of the Senators for Quebec.⁽⁵⁷⁾

Resignation,
Disqualifi-
cation, etc.

74. The Place of a Legislative Councillor of Quebec shall become vacant in the Cases, *mutatis mutandis* in which the Place of Senator becomes vacant.

Vacancies.

75. When a Vacancy happens in the Legislative Council of Quebec by Resignation, Death, or otherwise, the Lieutenant-Governor, in the Queen's Name, by Instrument under the Great Seal of Quebec, shall appoint a fit and qualified Person to fill the Vacancy.

⁽⁵⁴⁾ "The constitutions of Quebec and Ontario rest upon statute law, which is the reason why about a third of the B.N.A. Act consists of enactments specially relating to these two provinces." W. F. O'Connor, *op cit.*, Annex I, p. 6.

⁽⁵⁵⁾ The number of members is now 90, *see* R.S.O., 1937, c. 6, s. 2.

⁽⁵⁶⁾ *See* the Legislature Act, chapter 4 of the R.S.Q. 1941; 1944, c. 6; 1945, cc. 12, 14; 1946, c. 11; 1947, c. 20, *in re* the Legislative Council (composition, Speaker and officers), sections 6 to 18.

⁽⁵⁷⁾ *See*, as regards qualification, sections 7 and 8 of chapter 4 of the R.S.Q., 1941.

76. If any question arises respecting the Qualification of a Legislative Councillor of Quebec, or a Vacancy in the Legislative Council of Quebec, the same shall be heard and determined by the Legislative Council. Questions as to Vacancies etc.

77. The Lieutenant-Governor may from Time to Time, by Instrument under the Great Seal of Quebec, appoint a Member of the Legislative Council of Quebec to be Speaker thereof, and may remove him and appoint another in his stead.⁽⁵⁸⁾ Speaker of Legislative Council.

78. Until the Legislature of Quebec otherwise provides, the Presence of at least Ten Members of the Legislative Council, including the Speaker, shall be necessary to constitute a Meeting for the Exercise of its Powers. Quorum of Legislative Council.

79. Questions arising in the Legislative Council of Quebec shall be decided by a Majority of Voices, and the Speaker shall in all Cases have a Vote, and when the Voices are equal the Decision shall be deemed to be in the negative. Voting in Legislative Council.

80. *The Legislative Assembly of Quebec shall be composed of Sixty-five Members, to be elected to represent the Sixty-five Electoral Divisions or Districts of Lower Canada in this Act referred to, subject to Alteration thereof by the Legislature of Quebec: Provided that it shall not be lawful to present to the Lieutenant-Governor of Quebec for Assent any Bill for altering the Limits of any of the Electoral Divisions or Districts mentioned in the Second Schedule to this Act, unless the Second and Third Readings of such Bill have been passed by the Legislative Assembly with the Concurrence of the Majority of the Members representing all those Electoral Divisions or Districts, and the Assent shall not be given to such Bill unless an Address has been presented by the Legislative Assembly to the Lieutenant-Governor stating that it has been so passed.*⁽⁵⁹⁾ Constitution of Legislative Assembly of Quebec.

3. ONTARIO AND QUEBEC.

81. Repealed. See Note ⁽⁶⁰⁾ below.

82. The Lieutenant-Governor of Ontario and of Quebec shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of the Province, summon and call together the Legislative Assembly of the Province. Summoning of Legislative Assemblies.

⁽⁵⁸⁾ See, with respect to the Speaker of the Legislative Council, sections 9-14 of chapter 4 of the R.S.Q., 1941; 1946, c. 11.

⁽⁵⁹⁾ The Legislative Assembly of Quebec now consists of ninety-two members. See Section 19 of chapter 4 of the R.S.Q., 1941 as enacted by s. 1 of c. 12 of the Statutes of Quebec, 1945.

⁽⁶⁰⁾ Section 81 was repealed by the Statute Law Revision Act of 1893 (chapter 14). It read as follows:—(See pp. 103-5).

“81. *The Legislatures of Ontario and Quebec respectively shall be called together not later than Six Months after the Union.*” “First Session of Legislatures.”

Restriction
on election
of holders
of offices.

83. Until the Legislature of Ontario and Quebec otherwise provides, a Person accepting or holding in Ontario or in Quebec any Office, Commission, or Employment, permanent or temporary, at the Nomination of the Lieutenant-Governor, to which an annual Salary, or any Fee, Allowance, Emolument, or profit of any Kind or Amount whatever from the Province is attached, shall not be eligible as a Member of the Legislative Assembly of the respective Province, nor shall he sit or vote as such; but nothing in this Section shall make ineligible any Person being a Member of the Executive Council of the respective Province, or holding any of the following Offices, that is to say, the Offices of Attorney-General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands, and Commissioner of Agriculture and Public Works, and in Quebec Solicitor General, or shall disqualify him to sit or vote in the House for which he is elected, provided he is elected while holding such Office.⁽⁶¹⁾

Continuance
of existing
election
Laws.

84. Until the Legislatures of Ontario and Quebec respectively otherwise provide, all Laws which at the Union are in force in those Provinces respectively, relative to the following Matters, or any of them, namely,—the Qualifications and Disqualifications of Persons to be elected or to sit or vote as Members of the Assembly of Canada, the Qualifications or Disqualifications of Voters, the Oaths to be taken by Voters, the Returning Officers, their Powers and Duties, the Proceedings at Elections, the Periods during which such Elections may be continued, and the Trial of controverted Elections and the Proceedings incident thereto, the vacating of the Seats of Members and the issuing and Execution of new Writs in case of Seats vacated otherwise than by Dissolution,—shall respectively apply to Elections of Members to serve in the respective Legislative Assemblies of Ontario and Quebec.⁽⁶²⁾

Provided that until the Legislature of Ontario otherwise provides, at any Election for a Member of the Legislative Assembly of Ontario for the District of Algoma, in addition to Persons qualified by the Law of the Province of Canada to vote, every male British Subject, aged Twenty-one Years or upwards, being a Householder, shall have a Vote.

Duration of
Legislative
Assemblies.

85. Every Legislative Assembly of Ontario and every Legislative Assembly of Quebec shall continue for Four Years from the Day of the Return of the Writs for choosing the same (subject nevertheless to either the Legislative Assembly of Ontario or the Legislative Assembly of Quebec being sooner dissolved by the Lieutenant-Governor of the Province), and no longer.⁽⁶³⁾

⁽⁶¹⁾ The independence of the Legislative Assemblies is further reviewed by Acts passed in the different provinces, v.g.:—Ch. 12 of the Rev. Stat., Ont., 1937 (The Legislative Assembly Act) amended 1939, c. 47; 1939, 2nd Sess, c. 11; 1941, c. 26; 1944, c. 31; 1947, c. 55; and ch. 4 of the Rev. Stat., Que., 1941 (The Legislature Act) amended 1944, c. 6; 1945, cc. 12, 14; 1946, c. 11; 1947, c. 20.

⁽⁶²⁾ See respecting The Legislative Assembly and Elections in Ontario, chapters 6 to 12, both inclusive, of the Rev. Stat., Ont., 1937 as amended; on elections in Quebec, chapters 5 and 6 of the Rev. Stat., Que., 1941 as amended.

⁽⁶³⁾ "This limitation on the duration of the Legislature was carried in precise language into the Legislative Assembly Act of Ontario as it has been enacted and re-enacted from time to time until 1930, when, by c. 4, s. 2 the term was extended to five years and no longer. Then by 1942 (Ont.), c. 24 it was enacted that the then present Assembly shall continue until October 19, 1943, and that it shall not be

86. There shall be a session of the Legislature of Ontario and of that of Quebec once at least in every Year, so that Twelve Months shall not intervene between the last Sitting of the Legislature in each Province in one Session and its first Sitting in the next Session.

Yearly Session of Legislature.

87. The following Provisions of this Act respecting the House of Commons of Canada shall extend and apply to the Legislative Assemblies of Ontario and Quebec, that is to say,—the Provisions relating to the Election of a Speaker originally and on Vacancies, the Duties of the Speaker, the absence of the Speaker, the Quorum, and the Mode of voting, as if those Provisions were here re-enacted and made applicable in Terms to each such Legislative Assembly.

Speaker, Quorum, etc.

4. NOVA SCOTIA AND NEW BRUNSWICK ⁽⁶⁴⁾

88. The Constitution of the Legislature of each of the Provinces of Nova Scotia and New Brunswick shall, subject to the Provisions of this Act, continue as it exists at the Union until altered under the Authority of this Act.⁽⁶⁵⁾

Constitutions of Legislatures of Nova Scotia and New Brunswick.

89. Repealed. See Note ⁽⁶⁶⁾ below.

6. THE FOUR PROVINCES.

90. The following Provisions of this Act respecting the Parliament of Canada, namely,—the Provisions relating to Appropriation and Tax Bills, the Recommendation of Money Votes, the Assent to Bills, the Disallowance of Acts, and the Signification of Pleasure on Bills reserved,—shall extend and apply to the Legislatures of the several Provinces as if those

Application to Legislatures of provisions respecting money votes, etc.

necessary to hold any general election to choose members of the Assembly until such date without, however, affecting or abridging any prerogative of the Crown or the power of the Lieutenant-Governor to dissolve the Assembly sooner."

The King *ex rel.* Tolfree v. Clark *et al* (1943) 2 D.L.R., p. 558.

The Legislative Assembly Extension Act, 1943, (chapter 12 of the Statutes of Ontario, 1943) further extended the duration of the Legislative Assembly to the 19th day of October, 1944.

Advantage was not taken, however, of this statute and the Assembly was dissolved by the Lieutenant-Governor in July, 1943.

⁽⁶⁴⁾ "The provinces of Nova Scotia and New Brunswick, unlike the province of Canada, were, from the beginning, English colonies by settlement, with constitutions like that of England itself, granted under Royal Prerogative." W. F. O'Connor, *op. cit.* Annex I p. 6.

⁽⁶⁵⁾ The last lines of section 88 were repealed by the Statute Law Revision Act, 1893 (56 Victoria, chapter 14) of the Statutes of the United Kingdom of Great Britain and Ireland. The lines repealed were as follows:—

"and the House of Assembly of New Brunswick existing at the passage of this Act shall, unless sooner dissolved, continue for the Period for which it was elected."

⁽⁶⁶⁾ Section 89, and the heading therefor, were repealed by the Statute Law Revision Act of 1893 (ch. 14). They were as follows:—

"5. ONTARIO, QUEBEC, AND NOVA SCOTIA.

"89. Each of the Lieutenant-Governors of Ontario, Quebec and Nova Scotia shall cause writs to be issued for the First Election of Members of the Legislative Assembly thereof in such Form and by such Person as he thinks fit, and at such Time and addressed to such Returning Officer as the Governor-General directs, and so that the First Election of a Member of the Assembly for any Electoral District or any Subdivision thereof shall be held at the same Time and at the same Places as the Election for a Member to serve in the House of Commons of Canada for that Electoral District."

"First Elections."

Provisions were here re-enacted and made applicable in Terms to the respective Provinces and the Legislatures thereof, with the Substitution of the Lieutenant-Governor of the Province for the Governor General, of the Governor General for the Queen and for a Secretary of State, of One Year for Two Years, and of the Province for Canada.

VI. DISTRIBUTION OF LEGISLATIVE POWERS ⁽⁶⁷⁾

Powers of the Parliament.

Legislative
Authority of
Parliament
of Canada.

91. It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms in this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,—

1. The Public Debt and Property.
2. The Regulation of Trade and Commerce.
- 2A. Unemployment Insurance.⁽⁶⁸⁾
3. The raising of Money by any Mode or System of Taxation.
4. The borrowing of Money on the Public Credit.
5. Postal Service.
6. The Census and Statistics.
7. Militia, Military and Naval Service, and Defence.
8. The fixing of and providing for the Salaries and Allowances of Civil and other Officers of the Government of Canada.
9. Beacons, Buoys, Lighthouses, and Sable Island.
10. Navigation and Shipping.
11. Quarantine and the Establishment and Maintenance of Marine Hospitals.
12. Sea Coast and Inland Fisheries.
13. Ferries between a Province and any British or Foreign Country or between Two Provinces.
14. Currency and Coinage.
15. Banking, Incorporation of Banks, and the Issue of Paper Money.

⁽⁶⁷⁾ The constitutional decisions of the Judicial Committee have been collected and reprinted in three volumes. The first two volumes entitled "The Canadian Constitution and the Judicial Committee" were edited by Dr. E. R. Cameron. The first volume covered the period 1867 to 1915, and the second, the period 1916 to 1929. The period from 1930 to 1939 is covered in a volume edited and annotated by C. P. Plaxton, K.C. and entitled "Canadian Constitutional Decisions of the Privy Council, 1930 to 1939."

For applicable decisions and extracts from decisions of The Judicial Committee of the Privy Council extending from 1874 to 1938, see also Annex 3 of the *Report to the Honourable the Speaker of the Senate of Canada* by the Parliamentary Counsel of the Senate, relating to the enactment of the B.N.A. Act, 1867, etc.

⁽⁶⁸⁾ Section 91 was amended by inserting item 2A in 1940. This amendment was made by the British North America Act of 1940 (3 and 4 Geo. VI, ch. 36, section 1).

16. Savings Banks.
17. Weights and Measures.
18. Bills of Exchange and Promissory Notes.
19. Interest.
20. Legal Tender.
21. Bankruptcy and Insolvency.
22. Patents of Invention and Discovery.
23. Copyrights.
24. Indians and Lands reserved for the Indians.
25. Naturalization and Aliens.
26. Marriage and Divorce.
27. The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.
28. The Establishment, Maintenance, and Management of Penitentiaries.
29. Such Classes of Subjects as are expressly excepted in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any Matter coming within any of the Classes of Subjects enumerated in this Section shall not be deemed to come within the Class of Matters of a local or private Nature comprised in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

Exclusive Powers of Provincial Legislatures.

92. In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,—

Subjects of
exclusive
Provincial
Legislation.

1. The Amendment from Time to Time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the Office of Lieutenant-Governor.
2. Direct Taxation within the Province in order to the Raising of a Revenue for Provincial Purposes.
3. The borrowing of Money on the sole Credit of the Province.
4. The Establishment and Tenure of Provincial Offices and the Appointment and Payment of Provincial Officers.
5. The Management and Sale of the Public Lands belonging to the Province and of the Timber and Wood thereon.
6. The Establishment, Maintenance, and Management of Public and Reformatory Prisons in and for the Province.
7. The Establishment, Maintenance, and Management of Hospitals, Asylums, Charities, and Eleemosynary Institutions in and for the Province, other than Marine Hospitals.

8. Municipal Institutions in the Province.
9. Shop, Saloon, Tavern, Auctioneer, and other Licences in order to the raising of a Revenue for Provincial, Local, or Municipal Purposes.
10. Local Works and Undertakings other than such as are of the following Classes:—
 - (a) Lines of Steam or other Ships, Railways, Canals, Telegraphs, and other Works and Undertakings connecting the Province with any other or others of the Provinces, or extending beyond the Limits of the Province:
 - (b) Lines of Steam Ships between the Province and any British or Foreign Country:
 - (c) Such Works as, although wholly situate within the Province, are before or after their Execution declared by the Parliament of Canada to be for the general Advantage of Canada or for the Advantage of Two or more of the Provinces.
11. The Incorporation of Companies with Provincial Objects.
12. The Solemnization of Marriage in the Province.
13. Property and Civil Rights in the Province.
14. The Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.
15. The Imposition of Punishment by Fine, Penalty, or Imprisonment for enforcing any Law of the Province made in relation to any Matter coming within any of the Classes of Subjects enumerated in this Section.
16. Generally all Matters of a merely local or private Nature in the Province.

Education.

Legislation
respecting
Education.

93. In and for each Province the Legislature may exclusively make Laws in relation to Education, subject and according to the following Provisions:—

- (1) Nothing in any such Law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any Class of Persons have by Law in the Province at the Union:
- (2) All the Powers, Privileges, and Duties at the Union by Law conferred and imposed in Upper Canada on the Separate Schools and School Trustees of the Queen's Roman Catholic Subjects shall be and the same are hereby extended to the Dissident Schools of the Queen's Protestant and Roman Catholic Subjects in Quebec:

- (3) Where in any Province a System of Separate or Dissident Schools exists by Law at the Union or is thereafter established by the Legislature of the Province, an Appeal shall lie to the Governor General in Council from any Act or Decision of any Provincial Authority affecting any Right or Privilege of the Protestant or Roman Catholic Minority of the Queen's Subjects in relation to Education:
- (4) In case any such Provincial Law as from Time to Time seems to the Governor General in Council requisite for the due Execution of the Provisions of this Section is not made, or in case any Decision of the Governor General in Council on any Appeal under this Section is not duly executed by the proper Provincial Authority in that Behalf, then and in every such Case, and as far only as the Circumstances of each Case require, the Parliament of Canada may make remedial Laws for the due Execution of the Provisions of this Section and of any Decision of the Governor General in Council under this Section.

Uniformity of Laws in Ontario, Nova Scotia, and New Brunswick.

94. Notwithstanding anything in this Act, the Parliament of Canada may make Provision for the Uniformity of all or any of the Laws relative to Property and Civil Rights in Ontario, Nova Scotia, and New Brunswick, and of the Procedure of all or any of the Courts in those Three Provinces, and from and after the passing of any Act in that Behalf the Power of the Parliament of Canada to make Laws in relation to any Matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted; but any Act of the Parliament of Canada making provision for such Uniformity shall not have effect in any Province unless and until it is adopted and enacted as Law by the Legislature thereof.

Legislation for uniformity of Laws in three Provinces.

Agriculture and Immigration.

95. In each Province the Legislature may make Laws in relation to Agriculture in the Province, and to Immigration into the Province; and it is hereby declared that the Parliament of Canada may from Time to Time make Laws in relation to Agriculture in all or any of the Provinces, and to Immigration into all or any of the Provinces; and any Law of the Legislature of a Province relative to Agriculture or to Immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

Concurrent powers of Legislation respecting Agriculture, etc.

VII. JUDICATURE.

96. The Governor General shall appoint the Judges of the Superior, District, and County Courts in each Province, except those of the Courts of Probate in Nova Scotia and New Brunswick.

Appointment of Judges.

Selection of
Judges in
Ontario, etc.

97. Until the Laws relative to Property and Civil Rights in Ontario, Nova Scotia, and New Brunswick, and the Procedure of the Courts in those Provinces, are made uniform, the Judges of the Courts of those Provinces appointed by the Governor General shall be selected from the respective Bars of those Provinces.

Selection of
Judges in
Quebec.

98. The Judges of the Courts of Quebec shall be selected from the Bar of that Province.

Tenure of
office of
Judges of
Superior
Courts.

99. The Judges of the Superior Courts shall hold office during good Behaviour, but shall be removable by the Governor General on Address of the Senate and House of Commons.

Salaries, etc.,
of Judges.

100. The Salaries, Allowances, and Pensions of the Judges of the Superior, District, and County Courts (except the Courts of Probate in Nova Scotia and New Brunswick), and of the Admiralty Courts in Cases where the Judges thereof are for the Time being paid by Salary, shall be fixed and provided by the Parliament of Canada.

General
Court of
Appeal,
etc.

101. The Parliament of Canada may, notwithstanding anything in this Act, from Time to Time, provide for the Constitution, Maintenance, and Organization of a General Court of Appeal for Canada, and for the Establishment of any additional Courts for the better Administration of the Laws of Canada.

VIII. REVENUES; DEBTS; ASSETS; TAXATION.

Creation of
Consoli-
dated rev-
enue fund.

102. All Duties and Revenues over which the respective Legislatures of Canada, Nova Scotia, and New Brunswick before and at the Union had and have Power of Appropriation, except such portions thereof as are by this Act reserved to the respective Legislatures of the Provinces, or are raised by them in accordance with the special Powers conferred on them by this Act, shall form One Consolidated Revenue Fund, to be appropriated for the Public Service of Canada in the Manner and subject to the Charges in this Act provided.

Expenses of
Collection,
etc.

103. The Consolidated Revenue Fund of Canada shall be permanently charged with the Costs, Charges, and Expenses incident to the Collection, Management, and Receipt thereof, and the same shall form the first Charge thereon, subject to be reviewed and audited in such Manner as shall be ordered by the Governor General in Council until the Parliament otherwise provides.

Interest of
Provincial
public debts.

104. The annual interest of the Public Debts of the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union shall form the Second Charge on the Consolidated Revenue Fund of Canada.

Salary of
Governor
General.

105. Unless altered by the Parliament of Canada, the salary of the Governor General shall be Ten thousand Pounds Sterling Money of the United Kingdom of Great Britain and Ireland, payable out of the Consolidated Revenue Fund of Canada, and the same shall form the Third Charge thereon.

- 106.** Subject to the several Payments by this Act charged on the Consolidated Revenue Fund of Canada, the same shall be appropriated by the Parliament of Canada for the Public Service. Appropriation from time to time.
- 107.** All Stocks, Cash, Banker's Balances, and Securities for Money belonging to each Province at the time of the Union, except as in this Act mentioned, shall be the Property of Canada, and shall be taken in Reduction of the amount of the respective Debts of the Provinces at the Union. Transfer of stocks, etc.
- 108.** The Public Works and Property of each Province, enumerated in the Third Schedule to this Act, shall be the Property of Canada. Transfer of property in schedule.
- 109.** All Lands, Mines, Minerals, and Royalties belonging to the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union, and all Sums then due or payable for such Lands, Mines, Minerals, or Royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia, and New Brunswick in which the same are situate or arise, subject to any Trusts existing in respect thereof, and to any Interest other than that of the Province in the same. Property in Lands, Mines, etc.
- 110.** All Assets connected with such Portions of the Public Debt of each Province as are assumed by that Province shall belong to that Province. Assets connected with Provincial debts.
- 111.** Canada shall be liable for the Debts and Liabilities of each Province existing at the Union. Canada to be liable for Provincial debts.
- 112.** Ontario and Quebec conjointly shall be liable to Canada for the amount (if any) by which the Debt of the Province of Canada exceeds at the Union Sixty-two million five hundred thousand dollars, and shall be charged with Interest at the Rate of Five per Centum per Annum thereon. Debts of Ontario and Quebec.
- 113.** The Assets enumerated in the Fourth Schedule to this Act belonging at the Union to the Province of Canada shall be the property of Ontario and Quebec conjointly. Assets of Ontario and Quebec.
- 114.** Nova Scotia shall be liable to Canada for the Amount (if any) by which its Public Debt exceeds at the Union Eight million Dollars, and shall be charged with Interest at the Rate of Five per Centum per Annum thereon. Debt of Nova Scotia.
- 115.** New Brunswick shall be liable to Canada for the Amount (if any) by which its Public Debt exceeds at the Union Seven Million Dollars, and shall be charged with Interest at the Rate of Five per Centum per Annum thereon. Debt of New Brunswick.
- 116.** In case the Public Debts of Nova Scotia and New Brunswick do not at the Union amount to Eight million and Seven million Dollars respectively they shall respectively receive by half-yearly Payments in advance from the Government of Canada Interest at Five per Centum per Annum on the Difference between the actual Amounts of their respective Debts and such stipulated Amounts. Payment of interest to Nova Scotia and New Brunswick.

Provincial
public pro-
perty.

117. The several Provinces shall retain all their respective Public Property not otherwise disposed of in this Act, subject to the Right of Canada to assume any Lands or Public Property required for Fortifications or for the Defence of the Country.

Grants to
Provinces.

118. *The following Sums shall be paid yearly by Canada to the several Provinces for the Support of their Governments and Legislatures:*

<i>Dollars.</i>	
<i>Ontario.....</i>	<i>Eighty thousand.</i>
<i>Quebec.....</i>	<i>Seventy thousand.</i>
<i>Nova Scotia.....</i>	<i>Sixty thousand.</i>
<i>New Brunswick.....</i>	<i>Fifty thousand.</i>
<i>Two hundred and sixty thousand;</i>	

Superseded
by the
B.N.A. Act,
1907, ch. 11,
s. 1.

and an annual Grant in aid to each Province shall be made, equal to Eighty Cents per Head of the Population as ascertained by the Census of One thousand eight hundred and sixty-one, and in the Case of Nova Scotia and New Brunswick, by each subsequent Decennial Census until the Population of each of those two Provinces amounts to Four hundred thousand Souls, at which Rate such Grant shall thereafter remain. Such Grants shall be in full Settlement of all future Demands on Canada, and shall be paid half-yearly in advance to each Province; but the Government of Canada shall deduct from such Grants, as against any Province, all Sums chargeable as Interest on the Public Debt of that Province in excess of the several Amounts stipulated in this Act.⁽⁶⁹⁾

Further
grant to
New Bruns-
wick.

119. New Brunswick shall receive by half-yearly Payments in advance from Canada for the period of Ten years from the Union an additional Allowance of Sixty-three thousand Dollars per Annum; but as long as the Public Debt of that Province remains under Seven million Dollars, a Deduction equal to the interest at Five per Centum per Annum on such Deficiency shall be made from that Allowance of Sixty-three thousand Dollars.

Form of
payments.

120. All Payments to be made under this Act, or in discharge of Liabilities created under any Act of the Provinces of Canada, Nova Scotia, and New Brunswick respectively, and assumed by Canada, shall, until the Parliament of Canada otherwise directs, be made in such Form and Manner as may

⁽⁶⁹⁾ Section 118 has been superseded by the British North America Act of 1907 (7 Edward VII, ch. 11, c. 1). See also Notes (61) and (62).

As to subsidies and allowances to the provinces see the *Provincial Subsidies Act*, chapter 192 of the Revised Statutes of Canada, 1927, and The Maritime Provinces Additional Subsidies Act, 1942 (chapter 14 of the Statutes of Canada, 1942-43).

The subsidies to the provinces are at the moment (1943), as follows:—

"Ontario.....	\$ 2,941,424 28
Quebec.....	2,592,013 68
Nova Scotia.....	653,047 60
New Brunswick.....	693,040 16
Manitoba.....	1,713,284 18
British Columbia.....	874,561 46
Prince Edward Island.....	381,931 88
Alberta.....	1,787,475 00
Saskatchewan.....	2,132,175 00
Total.....	\$13,768,953 24"

Special compensation is also paid to the provinces which have agreed to vacate the personal income and corporation tax fields (for the duration of the war). See The Dominion-Provincial Taxation Agreement Act, 1942 (chapter 13 of the Statutes of Canada, 1942-43).

from Time to Time be ordered by the Governor General in Council.

121. All articles of the Growth, Produce, or Manufacture of any one of the Provinces shall, from and after the Union, be admitted free into each of the other Provinces. Canadian manufactures, etc.

122. The Customs and Excise Laws of each Province shall, subject to the Provisions of this Act, continue in force until altered by the Parliament of Canada. Continuance of customs and excise laws.

123. Where Customs Duties are, at the Union, leviable of any Goods, Wares, or Merchandises in any Two Provinces, those Goods, Wares, and Merchandises may, from and after the Union, be imported from one of those Provinces into the other of them on Proof of Payment of the Customs Duty leviable thereon in the Province of Exportation, and on Payment of such further Amount (if any) of Customs Duty as is leviable thereon in the Province of Importation. Exportation and Importation to be between two Provinces.

124. Nothing in this Act shall affect the Right of New Brunswick to levy the Lumber Dues provided in Chapter Fifteen of Title Three of the Revised Statutes of New Brunswick, or in any Act amending that Act before or after the Union, and not increasing the Amount of such Dues; but the Lumber of any of the Provinces other than New Brunswick shall not be subject to such Dues. Lumber Dues in New Brunswick.

125. No Lands or Property belonging to Canada or any Province shall be liable to Taxation. Exemption of Public Lands, etc.

126. Such Portions of the Duties and Revenues over which the respective Legislatures of Canada, Nova Scotia, and New Brunswick had before the Union Power of Appropriation as are by this Act reserved to the respective Governments or Legislatures of the Provinces, and all Duties and Revenues raised by them in accordance with the special Powers conferred upon them by this Act, shall in each Province form One Consolidated Revenue Fund to be appropriated for the Public Service of the Province. Provincial Consolidated revenue fund.

IX. MISCELLANEOUS PROVISIONS.

General.

127. Repealed. See Note ⁽⁷⁰⁾ below.

⁽⁷⁰⁾ Section 127 was repealed by the Statute Law Revision Act of 1893 (56 Vict., ch. 14). It read as follows:—

“127. *If any Person being at the Passing of this Act a Member of the Legislative Council of Canada, Nova Scotia, or New Brunswick, to whom a Place in the Senate is offered, does not within Thirty Days thereafter, by Writing under his Hand addressed to the Governor General of the Province of Canada or to the Lieutenant Governor of Nova Scotia or New Brunswick (as the Case may be), accept the same, he shall be deemed to have declined the same; and any Person who, being at the passing of this Act a Member of the Legislative Council of Nova Scotia or New Brunswick, accepts a Place in the Senate shall thereby vacate his Seat in such Legislative Council.*”

“As to Legislative Councillors of Provinces becoming senators.”

Oath of
Allegiance,
etc.

128. Every Member of the Senate or House of Commons of Canada shall before taking his Seat therein take and subscribe before the Governor General or some Person authorized by him, and every Member of a Legislative Council or Legislative Assembly of any Province shall before taking his Seat therein take and subscribe before the Lieutenant Governor of the Province or some Person authorized by him, the Oath of Allegiance contained in the Fifth Schedule to this Act; and every Member of the Senate of Canada and every Member of the Legislative Council of Quebec shall also, before taking his Seat therein, take and subscribe before the Governor General, or some Person authorized by him, the Declaration of Qualification contained in the same Schedule.

Continu-
ance of ex-
isting Laws,
Courts,
Officers, etc.

129. Except as otherwise provided by this Act, all Laws in force in Canada, Nova Scotia, or New Brunswick at the Union, and all Courts of Civil and Criminal Jurisdiction, and all legal Commissions, Powers, and Authorities, and all Officers, Judicial, Administrative, and Ministerial, existing therein at the Union, shall continue in Ontario, Quebec, Nova Scotia, and New Brunswick respectively, as if the Union had not been made; subject nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland,) to be repealed, abolished, or altered by the Parliament of Canada, or by the Legislature of the respective Province, according to the Authority of the Parliament or of that Legislature under this Act.⁽⁷¹⁾

Transfer of
officers to
Canada.

130. Until the Parliament of Canada otherwise provides, all Officers of the several Provinces having Duties to discharge in relation to Matters other than those coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces shall be Officers of Canada, and shall continue to discharge the Duties of their respective Offices under the same Liabilities, Responsibilities, and Penalties as if the Union had not been made.

Appoint-
ment of new
officers.

131. Until the Parliament of Canada otherwise provides, the Governor General in Council may from Time to Time appoint such Officers as the Governor General in Council deems necessary or proper for the effectual Execution of this Act.

Treaty obli-
gations.

132. The Parliament and Government of Canada shall have all Powers necessary or proper for performing the Obligations of Canada or of any Province thereof, as Part of the British Empire, towards Foreign Countries arising under Treaties between the Empire and such Foreign Countries.

Use of Eng-
lish and
French Lan-
guages.

133. Either the English or the French Language may be used by any Person in the Debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of

⁽⁷¹⁾ English law was introduced into the English speaking provinces as follows: In Nova Scotia by L/P in 1749, in P.E.I. in 1769 and in N.B. in 1784. The Upper Canada Statute of 1792 introduced English civil law in Ontario as from that date. The French civil law was continued in Quebec by the Quebec Act, 1774.

Quebec; and both those Languages shall be used in the respective Records and Journals of those Houses; and either of those Languages may be used by any Person or in any Pleading or Process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec.

The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those Languages.

Ontario and Quebec.

134. Until the Legislature of Ontario or of Quebec otherwise provides, the Lieutenant-Governors of Ontario and Quebec may each appoint under the Great Seal of the Province the following Officers, to hold Office during Pleasure, that is to say,—the Attorney-General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, and in the Case of Quebec the Solicitor General, and may, by Order of the Lieutenant-Governor in Council, from Time to Time prescribe the Duties of those Officers and of the several Departments over which they shall preside or to which they shall belong, and of the Officers and Clerks thereof; and may also appoint other and additional Officers to hold Office during Pleasure, and may from Time to Time prescribe the Duties of those Officers, and of the several Departments over which they shall preside or to which they shall belong, and of the Officers and Clerks thereof.⁽⁷²⁾

Appoint-
ment of ex-
ecutive offi-
cers for
Ontario and
Quebec.

135. Until the Legislature of Ontario or Quebec otherwise provides, all Rights, Powers, Duties, Functions, Responsibilities, or Authorities at the passing of this Act vested in or imposed on the Attorney-General, Solicitor General, Secretary and Registrar of the Province of Canada, Minister of Finance, Commissioner of Crown Lands, Commissioner of Public Works, and Minister of Agriculture and Receiver General, by any Law, Statute or Ordinance of Upper Canada, Lower Canada, or Canada, and not repugnant to this Act, shall be vested in or imposed on any Officer to be appointed by the Lieutenant-Governor for the Discharge of the same or any of them; and the Commissioner of Agriculture and Public Works shall perform the Duties and Functions of the Office of Minister of Agriculture at the passing of this Act imposed by the Law of the Province of Canada, as well as those of the Commissioner of Public Works.

Powers,
duties, etc.,
of Execu-
tive Officers.

136. Until altered by the Lieutenant-Governor in Council, the Great Seals of Ontario and Quebec respectively shall be the same, or of the same Design, as those used in the Provinces of Upper Canada and Lower Canada respectively before their Union as the Province of Canada.

Great Seals.

⁽⁷²⁾ For Ontario, *see* R.S.O., 1937, c. 14; 1944, c. 18, 1946, c. 26.
For Quebec, *see* R.S.Q., 1941, c. 7; 1942, c. 55; 1943, c. 39; 1944, c. 32; 1946, cc. 11, 22.

Construc-
tion of tem-
porary Acts.

137. The Words “and from thence to the End of the then next ensuing Session of the Legislature,” or Words to the same Effect, used in any temporary Act of the Province of Canada not expired before the Union, shall be construed to extend and apply to the next Session of the Parliament of Canada if the subject matter of the Act is within the Powers of the same, as defined by this Act, or to the next Sessions of the Legislatures of Ontario and Quebec respectively if the Subject Matter of the Act is within the Powers of the same as defined by this Act.

As to Errors
in names.

138. From and after the Union the Use of the Words “Upper Canada” instead of “Ontario”, or “Lower Canada” instead of “Quebec,” in any Deed, Writ, Process, Pleading, Document, Matter, or Thing, shall not invalidate the same.

As to issue
of Procla-
mations be-
fore Union,
to commence
after Union.

139. Any Proclamation under the Great Seal of the Province of Canada issued before the Union to take effect at a Time which is subsequent to the Union, whether relating to that Province, or to Upper Canada, or to Lower Canada, and the several Matters and Things therein proclaimed shall be and continue of like Force and Effect as if the Union had not been made.

As to issue
of Procla-
mations
after Union.

140. Any Proclamation which is authorized by any Act of the Legislature of the Province of Canada to be issued under the Great Seal of the Province of Canada, whether relating to that Province, or to Upper Canada, or to Lower Canada, and which is not issued before the Union, may be issued by the Lieutenant-Governor of Ontario or of Quebec, as its Subject Matter requires, under the Great Seal thereof; and from and after the Issue of such Proclamation the same and the several Matters and Things therein proclaimed shall be and continue of the like Force and Effect in Ontario or Quebec as if the Union had not been made.

Penitentiary.

141. *The Penitentiary of the Province of Canada shall, until the Parliament of Canada otherwise provides, be and continue the Penitentiary of Ontario and of Quebec.*⁽⁷³⁾

Arbitration
respecting
debts, etc.

142. The Division and Adjustment of the Debts, Credits, Liabilities, Properties, and Assets of Upper Canada and Lower Canada shall be referred to the Arbitrament of Three Arbitrators, One chosen by the Government of Ontario, One by the Government of Quebec, and One by the Government of Canada; and the Selection of the Arbitrators shall not be made until the Parliament of Canada and the Legislatures of Ontario and Quebec have met; and the Arbitrator chosen by the Government of Canada shall not be a Resident either in Ontario or in Quebec.

Division of
records.

143. The Governor General in Council may from Time to Time order that such and so many of the Records, Books, and Documents of the Province of Canada as he thinks fit

⁽⁷³⁾ For Penitentiaries in Canada, see *The Penitentiary Act, 1939* (3 George VI, ch. 6), as amended by ch. 37 of the Statutes of 1940; ch. 28 of 1945 (2 Sess.); and ch. 41 of 1947.

shall be appropriated and delivered either to Ontario or to Quebec, and the same shall thenceforth be the Property of that Province; and any Copy thereof or Extract therefrom, duly certified by the Officer having charge of the Original thereof, shall be admitted as Evidence.

144. The Lieutenant-Governor of Quebec may from Time to Time, by Proclamation under the Great Seal of the Province, to take effect from a day to be appointed therein, constitute Townships in those Parts of the Province of Quebec in which Townships are not then already constituted, and fix the Metes and Bounds thereof.

Constitution of townships in Quebec.

145. Repealed. See Note ⁽⁷⁴⁾ below.

XI. ADMISSION OF OTHER COLONIES.

146. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of Canada, and from the Houses of the respective Legislatures of the Colonies or Provinces of Newfoundland, Prince Edward Island, and British Columbia, to admit those Colonies or Provinces, or any of them, into the Union, and on Address from the Houses of the Parliament of Canada to admit Rupert's Land and the North-western Territory, or either of them, into the Union, on such Terms and Conditions in each Case as are in the Addresses expressed and as the Queen thinks fit to approve, subject to the Provisions of this Act; and the Provisions of any Order in Council in that Behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.⁽⁷⁵⁾

Power to admit Newfoundland, etc., into the Union.

⁽⁷⁴⁾ Section 145 was repealed by the Statute Law Revision Act of 1893 (56 Vict., ch. 14). It read as follows:—

"X. INTERCOLONIAL RAILWAY.

"145. *Inasmuch as the Provinces of Canada, Nova Scotia, and New Brunswick have joined in a Declaration that the Construction of the Intercolonial Railway is essential to the Consolidation of the Union of British North America, and to the Assent thereto of Nova Scotia and New Brunswick, and have consequently agreed that Provision should be made for its immediate Construction by the Government of Canada: Therefore, in order to give effect to that Agreement, it shall be the Duty of the Government and Parliament of Canada to provide for the Commencement within Six Months after the Union, of a Railway connecting the River St. Lawrence with the City of Halifax in Nova Scotia, and for the Construction thereof without Intermission, and the Completion thereof with all practicable Speed."*

"Duty of Government and Parliament of Canada to make Railway herein described."

⁽⁷⁵⁾ The power to establish additional Provinces in the Dominion, to alter the limits of the Provinces (with their consent), to legislate for any territory not included in the Province, was conferred by The British North America Act, 1871 (34-35 Vict., c. 28). This Act at the same time confirmed the Acts of Parliament of Canada 32-33 Vict., c. 3 and 33 Vict., c. 33 respecting Rupert's Land and the N.W. Territories, and the Province of Manitoba, respectively.

Rupert's Land and the North-West Territories became part of Canada pursuant to the Rupert's Land Act 1868 (Imp.) and the Order in Council of Her Majesty, Queen Victoria, dated 23rd June, 1870.

As to Representation of Newfoundland and Prince Edward Island in Senate.

147. In case of the Admission of Newfoundland and Prince Edward Island, or either of them, each shall be entitled to a Representation in the Senate of Canada of Four Members, and (notwithstanding anything in this Act) in case of the Admission of Newfoundland the normal Number of Senators shall be Seventy-six and their maximum Number shall be Eighty-two; but Prince Edward Island when admitted shall be deemed to be comprised in the third of the Three Divisions into which Canada is, in relation to the Constitution of the Senate, divided by this Act, and accordingly, after the Admission of Prince Edward Island, whether Newfoundland is admitted or not, the Representation of Nova Scotia and New Brunswick in the Senate shall, as Vacancies occur, be reduced from Twelve to Ten Members respectively, and the Representation of each of those Provinces shall not be increased at any Time beyond Ten, except under the Provision of this Act for the Appointment of Three or Six additional Senators under the Direction of the Queen.⁽⁷⁶⁾

SCHEDULES ⁽⁷⁷⁾

These Schedules are omitted. *See Note ⁽⁷⁶⁾ below.*

Manitoba was admitted as a province by the Manitoba Act assented to 12th May, 1870 (Dom.).

British Columbia was admitted as a province by Order in Council of Her Majesty, Queen Victoria, dated 16th May, 1871. *See R.S.C. 1927, Vol. V, p. 4495.*

Prince Edward Island was admitted as a province by Order in Council of Her Majesty, Queen Victoria, dated 26th June, 1873. *See R.S.C. 1927, Vol. V, p. 4505.*

Alberta was admitted as a province by "The Alberta Act" (Dom.), IV and V Ed. 7, c. 3, assented to 20th July, 1905. *See R.S.C. 1927, Vol. V, p. 4513.*

Saskatchewan was admitted as a province by "The Saskatchewan Act" (Dom.), IV and V Ed. VII, c. 42, assented to 20th July, 1905. *See R.S.C. 1927, Vol. V, p. 4531.*

All parts of Canada not within the boundaries of the various provinces are in all things under the jurisdiction of the Parliament of Canada. *See the North-West Territories Act, R.S.C. 1927, c. 142, Vol. III, p. 2871 and the Yukon Act, R.S.C. 1927, c. 215, Vol. IV, p. 4181. See also The British North America Act, 1871, c. 28, s. 2.*

⁽⁷⁶⁾ The British North America Act of 1886 provided for the Representation in the Parliament of Canada of Territories which for the time being form part of the Dominion of Canada, but are not included in any province (49-50 Victoria, chapter 35).

This Act was given retroactive effect by section 2 thereof.

The British North America Act of 1915 made provision for representation of Newfoundland in the Senate in the advent of its admission into the Union (5-6 George V, chapter 45, subparagraph (vi) of subsection one of section one).

⁽⁷⁷⁾ The first and second Schedules to the British North America Act, which gave the electoral divisions for the provinces of Ontario and Quebec respectively, have been altered by subsequent legislation of Canada and those provinces. For representation in the House of Commons, see chapter 71 of the Statutes of Canada, 1947. For representation in the Legislative Assembly of Ontario, see chapter six of the Revised Statutes of Ontario, 1937, and for representation in the Legislative Assembly of Quebec see chapter three of the Revised Statutes of the Province of Quebec, 1941 as amended by 1942, c. 16; 1943, c. 7; 1944, cc. 6, 7, 8; 1945, cc. 12, 13; 1946, c. 10.

RUPERT'S LAND ACT, 1868.

31-32 VICTORIA, CHAPTER 105.

(This Act was repealed by the Statute Law Revision Act, 1893, 56-57 Vict., c. 14).

An Act for enabling Her Majesty to accept a Surrender upon Terms of the Lands, Privileges, and Rights of "The Governor and Company of Adventurers of England trading into Hudson's Bay," and for admitting the same into the Dominion of Canada.

[31st July, 1868.]

WHEREAS by certain Letters Patent granted by His late Majesty King Charles the Second in the Twenty-second Year of His Reign certain Persons therein named were incorporated by the Name of "The Governor and Company of Adventurers of England trading into Hudson's Bay," and certain Lands and Territories, Rights of Government, and other Rights, Privileges, Liberties, Franchises, Powers, and Authorities, were thereby granted or purported to be granted to the said Governor and Company in His Majesty's Dominions in North America:

Recital of
Charter of
Hudson's
Bay Com-
pany, 22
Car. 2.

And whereas by the British North America Act, 1867, it was (amongst other things) enacted that it should be lawful for Her Majesty, by and with the Advice of Her Majesty's most Honourable Privy Council, on Address from the Houses of the Parliament of Canada, to admit Rupert's Land and the North-Western Territory, or either of them, into the Union on such Terms and Conditions as are in the Address expressed and as Her Majesty thinks fit to approve, subject to the provisions of the said Act:

And whereas for the Purpose of carrying into effect the Provisions of the said British North America Act, 1867, and of admitting Rupert's Land into the said Dominion as aforesaid upon such Terms as Her Majesty thinks fit to approve, it is expedient that the said Lands, Territories, Rights, Privileges, Liberties, Franchises, Powers, and Authorities, so far as the same have been lawfully granted to the said Company, should be surrendered to Her Majesty, Her Heirs and Successors, upon such Terms and Conditions as may be agreed upon by and between Her Majesty and the said Governor and Company as hereinafter mentioned:

Recital of
Agreement
of surrender.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:—

1. This Act may be cited as Rupert's Land Act, 1868.

Short title.

2. For the Purposes of this Act the Term "Rupert's Land" shall include the whole of the Lands and Territories held or claimed to be held by the said Governor and Company.

Definition of
"Rupert's
Land."

Power to
Her Majesty
to accept
Surrender of
Lands, etc.,
of the Com-
pany upon
certain
Terms.

3. It shall be competent for the said Governor and Company to surrender to Her Majesty, and for Her Majesty by any Instrument under Her Sign Manual and Signet to accept a Surrender of all or any of the Lands, Territories, Rights, Privileges, Liberties, Franchises, Powers, and Authorities whatsoever granted or purported to be granted by the said Letters Patent to the said Governor and Company within Rupert's Land, upon such Terms and Conditions as shall be agreed upon by and between Her Majesty and the said Governor and Company; provided, however, that such Surrender shall not be accepted by Her Majesty until the Terms and Conditions upon which Rupert's Land shall be admitted into the said Dominion of Canada shall have been approved of by Her Majesty, and embodied in an Address to Her Majesty from both the Houses of the Parliament of Canada in pursuance of the One hundred and forty-sixth Section of the British North America Act, 1867; and that the said Surrender and Acceptance thereof shall be null and void unless within a Month from the Date of Such Acceptance Her Majesty does by Order in Council under the Provisions of the said last recited Act admit Rupert's Land into the said Dominion; provided further, that no Charge shall be imposed by such Terms upon the Consolidated Fund of the United Kingdom.

Extinguish-
ment of all
Rights of the
Company.

4. Upon the Acceptance by Her Majesty of such Surrender all Rights of Government and Proprietary Rights, and all other Privileges, Liberties, Franchises, Powers, and Authorities whatsoever, granted or purported to be granted by the said Letters Patent to the said Governor and Company within Rupert's Land, and which shall have been so surrendered, shall be absolutely extinguished; provided that nothing herein contained shall prevent the said Governor and Company from continuing to carry on in Rupert's Land or elsewhere Trade and Commerce.

Power to
Her Majesty
by Order in
Council to
admit Ru-
pert's Land
into and
form Part of
the Domin-
ion of
Canada.

5. It shall be competent to Her Majesty by any such Order or Orders in Council as aforesaid, on Address from the Houses of Parliament of Canada, to declare that Rupert's Land shall, from a Date to be therein mentioned, be admitted into and become Part of the Dominion of Canada; and thereupon it shall be lawful for the Parliament of Canada from the Date aforesaid to make, ordain, and establish within the Land and Territory so admitted as aforesaid all such Laws, Institutions, and Ordinances, and to constitute such Courts and Officers, as may be necessary for the Peace, Order, and good Government of Her Majesty's Subjects and others therein: Provided that, until otherwise enacted by the said Parliament of Canada, all the Powers, Authorities, and Jurisdiction of the several Courts of Justice now established in Rupert's Land, and of the several Officers thereof, and of all Magistrates and Justices now acting within the said Limits, shall continue in full force and effect therein.

Jurisdiction
of present
Courts and
Officers con-
tinued.

THE BRITISH NORTH AMERICA ACT, 1871. ⁽⁷⁸⁾

34-35 VICTORIA, CHAPTER 28.

An Act respecting the establishment of Provinces in the Dominion of Canada.

[29th June, 1871.]

WHEREAS doubts have been entertained respecting the powers of the Parliament of Canada to establish Provinces in Territories admitted, or which may hereafter be admitted, into the Dominion of Canada, and to provide for the representation of such Provinces in the said Parliament, and it is expedient to remove such doubts, and to vest such powers in the said Parliament:

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited for all purposes as The British North America Act, 1871. Short title.

2. The Parliament of Canada may from time to time establish new Provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any Province thereof, and may, at the time of such establishment, make provision for the constitution and administration of any such Province, and for the passing of laws for the peace, order, and good government of such Province, and for its representation in the said Parliament.⁽⁷⁹⁾ Parliament of Canada may establish new Provinces and provide for the constitution, etc., thereof.

⁽⁷⁸⁾ As to the procedure adopted to obtain the enactment of The British North America Act, 1871, this is what the late Dr. O. D. Skelton, then Under Secretary of State for External Affairs, said in the Special Committee of the House of Commons on the B.N.A. Act in 1935 (at page 31):—

"The object of this Act was to settle doubts as to the competence of the Canadian parliament to establish new provinces out of the western territories, to give them constitutions and representation in the federal parliament.

The procedure was that the Act was passed by the United Kingdom parliament at the request merely of the Canadian government. There was no consent of or consultation with the provinces in 1871. There was not even an address from the federal parliament—an omission defended on the ground that parliament had implied concurrence by passing in the previous session the Manitoba Act, which the United Kingdom statute was sought to validate. On a motion by Holton, the House of Commons voted by 137 to 0: 'That no change in the provisions of the B.N.A. Act should be sought by the Executive Government without the previous assent of the Parliament of this Dominion.'

David Mills moved a resolution to the effect that any alteration in the principles of representation in the House of Commons without the consent of the several provinces to the original compact, would be a violation of the federal principle of the constitution, but the resolution was rejected without debate."

Dr. Eugene Forsey of McGill University notes (Canadian Journal of Economics and Political Science, Vol. 2, 1936 at page 596) that "there is an historical error on page 31. The B.N.A. Act of 1871 was not passed without an address from the Dominion Parliament. The bill was drafted at the request of the Dominion Cabinet, but submitted to the British Parliament only after an address from both Houses of the Dominion Parliament (*Journals of the H. of C. of Can.* 1871, pp. 291-4, 300-1; *British Parliamentary Debates*, ser. 3, vol. 206, pp. 778, 1171, 1499, 1598; vol. 207, pp. 138, 219, 305, 724).

⁽⁷⁹⁾ See section 146 of The British North America Act, 1867 and note ⁽⁷⁵⁾. See also The British North America Act of 1886. Manitoba, carved out of the North West Territories, was the first of the new provinces to be established after Confederation. The Canadian Act of 1870 (see Part IV), was passed in anticipation of the Order in Council printed in Part III of this volume admitting those territories. The Imperial Act of 1871 (above) confirms the Canadian Act.

Alteration of
limits of
Provinces.

3. The Parliament of Canada may from time to time, with the consent of the Legislature of any Province of the said Dominion, increase, diminish, or otherwise alter the limits of such Province, upon such terms and conditions as may be agreed to by the said Legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution or alteration of territory in relation to any Province affected thereby.

Parliament
of Canada
may legislate
for any ter-
ritory not
included in
a Province.

4. The Parliament of Canada may from time to time make provision for the administration, peace, order, and good government of any territory not for the time being included in any Province.

Confirma-
tion of Acts
of Parlia-
ment of
Canada, 32
& 33 Vict.,
(Canadian)
cap. 3, 33
Vict., (Cana-
dian) cap. 3.

5. The following Acts passed by the said Parliament of Canada, and intituled respectively,—“An Act for the temporary government of Rupert’s Land and the North Western Territory when united with Canada”; and “An Act to amend and continue the Act thirty-two and thirty-three Victoria, chapter three, and to establish and provide for the government of the Province of Manitoba,” shall be and be deemed to have been valid and effectual for all purposes whatsoever from the date at which they respectively received the assent, in the Queen’s name, of the Governor General of the said Dominion of Canada.

Limitation
of powers of
Parliament
of Canada
to legislate
for an estab-
lished Prov-
ince.

6. Except as provided by the third section of this Act, it shall not be competent for the Parliament of Canada to alter the provisions of the last-mentioned Act of the said Parliament in so far as it relates to the Province of Manitoba, or of any other Act hereafter establishing new Provinces in the said Dominion, subject always to the right of the Legislature of the Province of Manitoba to alter from time to time the provisions of any law respecting the qualification of electors and members of the Legislative Assembly, and to make laws respecting elections in the said Province.⁽⁸⁰⁾

⁽⁸⁰⁾ It has been suggested that the resolutions of the Senate and House of Commons, preceding the amendments made by the U.K. Parliament to the British North America Act, 1867 should be set out in full. It appears that one such resolution should be given, as the form is always the same, except for the amendment itself which constitutes the Imperial Act, therefore only one such resolution will be found in this book, that is the one preceding the B.N.A. Act 1946, being the last amendment to date to our constitution.

THE PARLIAMENT OF CANADA ACT, 1875.⁽⁸¹⁾

38-39 VICTORIA, CHAPTER 38.

An Act to remove certain doubts with respect to the powers of the Parliament of Canada under section eighteen of the British North America Act, 1867.

[19th July, 1875.]

WHEREAS by section eighteen of the British North America Act, 1867, it is provided as follows: "The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons, and by the Members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that the same shall never exceed those at the passing of this Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the Members thereof:"

30 & 31
Vict., c. 3.

And whereas doubts have arisen with regard to the power of defining by an Act of the Parliament of Canada, in pursuance of the said section, the said privileges, powers, or immunities; and it is expedient to remove such doubts:

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. Section eighteen of the British North America Act, 1867, is hereby repealed, without prejudice to anything done under that section, and the following section shall be substituted for the section so repealed.

Substitu-
tion of new
section for
section 18 of
30 & 31,
Vict., c. 3.

The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons, and by the members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada,

⁽⁸¹⁾ The procedure followed in obtaining this amendment was outlined by Dr. Skelton as follows (*op. cit.* p. 31):—

"The object of this Act was to settle doubts as to the power of parliament under section 18 of the B.N.A. Act to define its own privileges, powers, and immunities, and to validate the Oaths Bill. It was enacted to settle a question that had arisen as to the power of a parliamentary committee to require evidence on oath, and also to validate the Oaths Bill, which had been passed by the Canadian Parliament, but later disallowed. The procedure again was that this Act was passed by the United Kingdom parliament, merely at the request of the Canadian government. This procedure was defended in the Dominion parliament on the ground that parliament had already approved the object by passing the Oaths Bill which had been held *ultra vires*, and the purpose of the United Kingdom Act was to validate it. A resolution demanding parliamentary rather than executive action was introduced but withdrawn."

but so that any Act of the Parliament of Canada defining such privileges, immunities, and powers shall not confer any privileges, immunities, or powers exceeding those at the passing of such Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the Members thereof.⁽⁸²⁾

Confirma-
tion of Act
of Parlia-
ment of Can-
ada 31 & 32
Vict., c. 24.

2. The Act of the Parliament of Canada passed in the thirty-first year of the reign of Her present Majesty, chapter twenty-four, intituled "An Act to provide for oaths to witnesses being administered in certain cases for the purposes of either House of Parliament," shall be deemed to be valid, and to have been valid as from the date at which the Royal Assent was given thereto by the Governor General of the Dominion of Canada.

Short title.

3. This Act may be cited as the Parliament of Canada Act, 1875.

⁽⁸²⁾ See section 18 of the British North America Act, 1867, and note ⁽³²⁾.

THE BRITISH NORTH AMERICA ACT, 1886. ⁽⁸³⁾

49-50 VICTORIA, CHAPTER 35.

An Act respecting the Representation in the Parliament of Canada of Territories which for the time being form part of the Dominion of Canada, but are not included in any Province.

[25th June, 1886.]

Whereas it is expedient to empower the Parliament of Canada to provide for the representation in the Senate and House of Commons of Canada, or either of them, of any territory which for the time being forms part of the Dominion of Canada, but is not included in any province:

Rep. 61-62
Vict. c. 22
(Imperial).

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:—

(NOTE: The preamble to this Act was repealed by the Statute Law Revision Act, 1898, 61-62 Vict., c. 22.)

1. The Parliament of Canada may from time to time make provision for the representation in the Senate and House of Commons of Canada, or in either of them, of any territories which for the time being form part of the Dominion of Canada, but are not included in any province thereof.

Provision by
Parliament
of Canada
for represen-
tation of
territories.

2. Any Act passed by the Parliament of Canada before the passing of this Act for the purpose mentioned in this Act shall, if not disallowed by the Queen, be, and shall be deemed to have been, valid and effectual from the date at which it received the assent, in Her Majesty's name, of the Governor General of Canada.

Effect of
Acts of Par-
liament of
Canada.

It is hereby declared that any Act passed by the Parliament of Canada, whether before or after the passing of this Act, for the purpose mentioned in this Act or in the British North America Act, 1871, has effect, notwithstanding anything in the British North America Act, 1867, and the number of Senators or the number of Members of the House of Commons specified in the last-mentioned Act is increased by the number of Senators or of Members, as the case may be, provided by any such Act of the Parliament of Canada for the representation of any provinces or territories of Canada. ⁽⁸⁴⁾

34 & 35
Vict., c. 28.

30 & 31
Vict., c. 3.

⁽⁸³⁾ The procedure followed in obtaining this amendment was outlined by Dr. Skelton as follows (*op. cit.* p. 31):—

"Its object was to empower parliament to provide for representation of territories in the Senate and House of Commons. The 1871 Act had been to empower the Dominion to make provinces out of the territories, and give them representation; this Act was to empower them to give territories, as such, representation in the Senate and House of Commons, as parliament saw fit. The procedure was that the Act was passed by the United Kingdom parliament in accordance with an address from the Senate and House of Commons. The provinces were not consulted, and did not ask to be consulted, though if the B.N.A. Act was a treaty, modification in the representation in parliament, changing the balance of sectional power, might have been contended to require the consent of the existing provinces."

⁽⁸⁴⁾ See sections 21-37 of the British North America Act, 1867, and also the British North America Act of 1871, *ante*.

Short title
and con-
struction.

3. This Act may be cited as the British North America Act, 1886.

30 & 31
Vict., c. 3
34 & 35
Vict., c. 28.

This Act and the British North America Act, 1867, and the British North America Act, 1871, shall be construed together, and may be cited together as the British North America Acts, 1867 to 1886.

THE CANADA (ONTARIO BOUNDARY) ACT, 1889

52-53 VICTORIA, CHAPTER 28.

An Act to declare the Boundaries of the Province of Ontario in the Dominion of Canada.

[12th August, 1889]

WHEREAS the Senate and Commons of Canada in Parliament assembled have presented to Her Majesty the Queen the address set forth in the schedule to this Act respecting the boundaries of the Province of Ontario:

And whereas the Government of the Province of Ontario have assented to the boundaries mentioned in that address:

And whereas such boundaries, so far as the Province of Ontario adjoins the Province of Quebec are identical with those fixed by the proclamation of the Governor General issued in November, one thousand seven hundred and ninety-one, which have ever since existed:

And whereas such boundaries, so far as the Province of Ontario adjoins the Province of Manitoba, are identical with those found to be the correct boundaries by a report of the Judicial Committee of the Privy Council, which Her Majesty the Queen in Council, on the eleventh day of August, one thousand eight hundred and eighty-four, ordered to be carried into execution:

And whereas it is expedient that the boundaries of the Province of Ontario should be declared by authority of Parliament in accordance with the said address.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Canada (Ontario Boundary) Act, 1889. Short title.

2. It is hereby declared that the westerly, northerly, and easterly boundaries of the Province of Ontario are those described in the address set forth in the schedule to this Act. Declaration of boundaries of Ontario.

BOUNDARIES OF THE PROVINCE OF ONTARIO

SCHEDULE

ADDRESS TO THE QUEEN FROM THE SENATE AND HOUSE OF COMMONS
OF CANADA.

We, Your Majesty's most dutiful and loyal subjects, the Senate and Commons of Canada, in Parliament assembled, humbly approach Your Majesty with the request that Your Majesty may be graciously pleased to cause a measure to be submitted to the Parliament of the United Kingdom,

declaring and providing the following to be the westerly, northerly, and easterly boundaries of the Province of Ontario, that is to say:—

Commencing at the point where the international boundary between the United States of America and Canada strikes the western shores of Lake Superior, thence westerly along the said boundary to the north-west angle of the Lake of the Woods, thence along a line drawn due north until it strikes the middle line of the course of the river discharging the waters of the lake called Lake Seul or the Lonely Lake, whether above or below its confluence with the stream flowing from the Lake of the Woods towards Lake Winnipeg, and thence proceeding eastward from the point at which the before-mentioned line strikes the middle line of the course of the river last aforesaid, along the middle line of the course of the same river (whether called by the name of the English River or, as to the part below the confluence, by the name of the River Winnipeg) up to Lake Seul or the Lonely Lake, and thence along the middle line of Lake Seul or Lonely Lake to the head of that lake, and thence by a straight line to the nearest point of the middle line of the waters of Lake St. Joseph, and thence along that middle line until it reaches the foot or outlet of that lake, and thence along the middle line of the river by which the waters of Lake St. Joseph discharge themselves to the shore of the part of Hudson's Bay commonly known as James Bay, and thence south-easterly following upon the said shore to a point where a line drawn due north from the head of Lake Temiscamingue would strike it, and thence due south along the said line to the head of the said lake, and thence through the middle channel of the said lake into the Ottawa River, and thence descending along the middle of the main channel of the said river to the intersection by the prolongation of the western limits of the Seigneurie of Rigaud, such mid-channel being indicated on a map of the Ottawa Ship Canal Survey made by Walter Shanly, C.E., and approved by Order of the Governor General in Council, dated the twenty-first July, one thousand eight hundred and eighty-six; and thence southerly, following the said westerly boundary of the Seigneurie of Rigaud to the south-west angle of the said Seigneurie, and then southerly along the western boundary of the augmentation of the Township of Newton to the north-west angle of the Seigneurie of Longueuil, and thence south-easterly along the south-western boundary of said Seigneurie of New Longueuil to the stone boundary on the north bank of the Lake St. Francis, at the cove west of Point au Baudet, such line from the Ottawa River to Lake St. Francis being as indicated on a plan of the line of boundary between Upper and Lower Canada, made in accordance with the Act 23 Victoria, chapter 21, and approved by Order of the Governor General in Council, dated the 16th of March, 1861.

THE STATUTE LAW REVISION ACT, 1893.⁽⁸⁵⁾

56-57 VICTORIA, CHAPTER 14.

An Act for further promoting the Revision of the Statute Law by repealing Enactments which have ceased to be in force or have Become unnecessary.

[9th June, 1893.]

WHEREAS it is expedient that certain enactments, which may be regarded as spent, or have ceased to be in force otherwise than by express specific repeal by Parliament, or have, by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. The enactments described in the schedule to this Act are hereby repealed, subject to the provisions of this Act and subject to the exceptions and qualifications in the schedule mentioned; and every part of a title, preamble, or recital specified after the words "in part, namely," in connexion with an Act mentioned in the said schedule may be omitted from any revised edition of the statutes published by authority after the passing of this Act, and there may be added in the said edition such brief statement of the Acts, officers, persons, and things mentioned in the title, preamble, or recital, as may in consequence of such omission appear necessary:

Enactments
in schedule
repealed.

Provided as follows:

The repeal of the words or expressions of enactment described in the said schedule shall not affect the binding force, operation, or construction of any statute, or of any part of a statute, whether as respects the past or the future;

and where any enactment not comprised in the said schedule has been repealed, confirmed, revived, or perpetuated by any enactment hereby repealed, such repeal, confirmation, revivor, or perpetuation shall not be affected by the repeal effected by this Act;

and the repeal by this Act of any enactment or schedule shall not affect any enactment in which such enactment or schedule has been applied, incorporated, or referred to;

⁽⁸⁵⁾ "The story of the amendments is simple. Periodically the British Parliament passes a Statute Law Revision Act, the object of which is to clear the English statute law of enactments which have either ceased to be in force or have become unnecessary, but which have not been expressly repealed. The revision Act is prepared by the Statute Law Committee, set up in 1868 by Lord Cairns to superintend the publication of the revised edition of the statutes." F. R. Scott in *The Canadian Bar Review*, April 1942, p. 340.

nor shall such repeal of any enactment affect any right to any hereditary revenues of the Crown, or affect any charges thereupon or prevent any such enactment from being put in force for the collection of any such revenues, or otherwise in relation thereto;

and this Act shall not affect the validity, invalidity, effect, or consequences of anything already done or suffered,—or any existing status or capacity,—or any right, title, obligation, or liability already acquired, accrued, or incurred, or any remedy or proceeding in respect thereof,—or any release or discharge of or from any debt, penalty, obligation, liability, claim, or demand,—or any indemnity,—or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law or equity, or established jurisdiction, form or course of pleading, practice, or procedure, or the general or public nature of any statute, or any existing usage, franchise, liberty, custom, privilege, restriction, exemption, office, appointment, payment, allowance, emolument, or benefit, or any prospective right notwithstanding that the sum respectively may have been in any manner affirmed, recognized, or derived by, in, or from any enactment hereby repealed;

nor shall this Act revive or restore any jurisdiction, office, duty, drawback, fee, payment, franchise, liberty, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure, form of punishment, or other matter or thing not now existing or in force:

and this Act shall not extend to repeal any enactment so far as the same may be in force in any part of Her Majesty's dominions out of the United Kingdom, except where otherwise expressed in the said schedule.

Application
of repealed
enactments
in local
courts.

2. If and so far as any enactment repealed by this Act applies or may have been by Order in Council applied to the court of the county palatine of Lancaster or to any inferior court of the civil jurisdiction, such enactment shall be construed as if it were contained in a local and personal Act specially relating to such court and shall have effect accordingly.

Citation by
short titles.

3. Where any Act cites or refers to another Act otherwise than by its short title, the short title may, in any revised edition of the Statutes printed by authority, be printed in substitution for such citation or reference.

Short title.

4. This Act may be cited as the Statute Law Revision Act, 1893.

SCHEDULE.⁽⁸⁶⁾

Reign and Chapter	Title
	(<i>Inter alia</i>)
30 and 31 Vict., c. 3.	The British North America Act, 1867. In part; namely,— From “Be it therefore” to “same as follows.” Section two. Section four to “provisions” where it last occurs. Section twenty-five. Sections forty-two and forty-three. Section fifty-one, from “of the census” to “seventy-one and” and the word “subsequent.” Section eighty-one. Section eighty-eight, from “and the House” to the end of the section. Sections eighty-nine and one hundred and twenty-seven. Section one hundred and forty-five. Repealed as to all Her Majesty’s Dominions.
31-32 Vict., c. 105. . .	Rupert’s Land Act, 1868.

⁽⁸⁶⁾ There are 76 pages in the Schedule to this Act, covering repealed enactments from 7 Will. 4 and 1 Vict., c. 25 (1837) to 31 and 32 Vict., c. 129 (1868). Applicable lines only are given here.

THE CANADIAN SPEAKER (APPOINTMENT OF DEPUTY) ACT, 1895

59 VICTORIA, CHAPTER 3.

**An Act for removing Doubts as to the Validity of an Act
passed by the Parliament of the Dominion of Canada
respecting the Deputy-Speaker of the Senate.**

[5th September, 1895]

WHEREAS the Parliament of Canada have passed an Act intituled "An Act respecting the Speaker of the Senate," and providing for the appointment of a deputy during the illness or absence of the Speaker of the Senate, and containing a suspending clause to the effect that the Act should not come into force until Her Majesty's pleasure thereon has been signified by proclamation in the *Canada Gazette*:

And whereas doubts have arisen as to the power of the Parliament of Canada to pass that Act, and it is expedient to remove those doubts:

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Confirma-
tion of
Canadian
Act with
respect to
Speaker of
Senate.

1. The Act of the Parliament of Canada passed in the session held in the fifty-seventh and fifty-eighth years of Her Majesty's reign, entitled "An Act respecting the Speaker of the Senate," shall be deemed to be valid, and to have been valid, as from the date at which the royal assent was given thereto by the Governor General of the Dominion of Canada. (*See the Act referred to in Part V.*)

Short title.

2. This Act may be cited as the Canadian Speaker (Appointment of Deputy) Act, 1895, Session 2.

BRITISH NORTH AMERICA ACT, 1907.⁽⁸⁷⁾

7 EDWARD VII, CHAPTER 11.

An Act to make further provision with respect to the sums to be paid by Canada to the several Provinces of the Dominion.

[9th August, 1907.]

WHEREAS an address has been presented to His Majesty by the Senate and Commons of Canada in the terms set forth in the schedule to this Act;

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) The following grants shall be made yearly by Canada to every province, which at the commencement of this Act is a province of the Dominion, for its local purposes and the support of its Government and Legislature:—

Payments
to be made
by Canada
to
Provinces.

(a) A fixed grant—

where the population of the province is under one hundred and fifty thousand, of one hundred thousand dollars;

where the population of the province is one hundred and fifty thousand, but does not exceed two hundred thousand, of one hundred and fifty thousand dollars;

where the population of the province is two hundred thousand, but does not exceed four hundred thousand, of one hundred and eighty thousand dollars;

See Note ⁽⁶⁹⁾ at the foot of section 118 of the B.N.A. Act, 1867.

⁽⁸⁷⁾ The procedure on this amendment has been outlined by Dr. Skelton, as follows (*op. cit.* p. 32):—

“Then, in 1907, after twenty years, there came the fourth amendment. This one is of particular importance. The object was to provide an increase in and definite settlement of federal subsidies to the provinces. . . . The procedure in this case was that the Act was passed by the United Kingdom Parliament in accordance with an address from the Senate and House of Commons based on a series of resolutions passed by a provincial conference in 1887 and re-affirmed with some changes in similar conferences in 1902 and 1907.

It has been contended that by adopting this procedure the Dominion recognized the necessity of securing an amendment to the B.N.A. Act to effect any change in the subsidy section and the necessity also of consulting the provinces before an amendment was requested. Perhaps it should rather be said that the Dominion recognized the desirability from this point of view, of preventing any further provincial demands, and sought by consultation with the provinces and by utilizing the formal method of amendment, to give some degree of permanence to the arrangement. Its efforts were in vain. The proposal made by Sir Wilfrid Laurier included the words “final and unalterable settlement,” but that was rejected in London as inappropriate in a United Kingdom statute, and revision of the terms then granted has proceeded apace, without formal amendment and without incidentally the consent of all the provinces.”

where the population of the province is four hundred thousand, but does not exceed eight hundred thousand, of one hundred and ninety thousand dollars;

where the population of the province is eight hundred thousand, but does not exceed one million five hundred thousand, of two hundred and twenty thousand dollars;

where the population of the province exceeds one million five hundred thousand, of two hundred and forty thousand dollars; and

(b) Subject to the special provisions of this Act as to the provinces of British Columbia and Prince Edward Island, a grant at the rate of eighty cents per head of the population of the province up to the number of two million five hundred thousand, and at the rate of sixty cents per head of so much of the population as exceeds that number.

(2) An additional grant of one hundred thousand dollars shall be made yearly to the Province of British Columbia for a period of ten years from the commencement of this Act.

(3) The population of the province shall be ascertained from time to time in the case of the provinces of Manitoba, Saskatchewan, and Alberta respectively by the last quinquennial census or statutory estimate of population made under the Acts establishing those provinces or any other Act of the Parliament of Canada making provision for the purpose, and in the case of any other province by the last decennial census for the time being.

(4) The grants payable under this Act shall be paid half-yearly in advance to each province.

(5) The grants payable under this Act shall be substituted for the grants or subsidies (in this Act referred to as existing grants) payable for the like purposes at the commencement of this Act to the several provinces of the Dominion, under the provisions of section one hundred and eighteen of the British North America Act, 1867, or of any Order in Council establishing a province, or of any Act of the Parliament of Canada containing directions for the payment of any such grant or subsidy, and those provisions shall cease to have effect.

(6) The Government of Canada shall have the same power of deducting sums charged against a province on account of the interest on public debt in the case of the grant payable under this Act to the province as they have in the case of the existing grant.

(7) Nothing in this Act shall affect the obligation of the Government of Canada to pay to any province any grant which is payable to that province, other than the existing grant for which the grant under this Act is substituted.

(8) In the case of the provinces of British Columbia and Prince Edward Island, the amount paid on account of the grant payable per head of the population to the provinces under this Act shall not at any time be less than the amount of the corresponding grant payable at the commencement of this Act;

and if it is found on any decennial census that the population of the province has decreased since the last decennial census, the amount paid on account of the grant shall not be decreased below the amount then payable, notwithstanding the decrease of the population.

2. This Act may be cited as the British North America Act, 1907, and shall take effect as from the first date of July, nineteen hundred and seven.

Short title
and inter-
pretation.

SCHEDULE.

To the King's Most Excellent Majesty.

Most Gracious Sovereign,

We, Your Majesty's most dutiful and loyal subjects, the Senate and Commons of Canada, in Parliament assembled, humbly approach Your Majesty for the purpose of representing that it is expedient to amend the scale of payments authorized under section 118 of the Acts of the Parliament of the United Kingdom of Great Britain and Ireland, commonly called the British North America Act, 1867, or by or under any terms or conditions upon which any other provinces were admitted to the Union, to be made by Canada to the several provinces of the Dominion for the support of their Governments and Legislatures by providing that—

A. Instead of the amounts now payable, the sums hereafter payable yearly by Canada to the several provinces for the support of their Governments and Legislatures be according to population, and as follows:—

- (a) Where the population of the province is under 150,000, \$100,000;
- (b) Where the population of the province is 150,000, but does not exceed 200,000 \$150,000;
- (c) Where the population of the province is 200,000, but does not exceed 400,000, \$180,000;
- (d) Where the population of the province is 400,000, but does not exceed 800,000, \$190,000;
- (e) Where the population of the province is 800,000, but does not exceed 1,500,000, \$220,000;
- (f) Where the population of the province exceeds 1,500,000, \$240,000.

B. Instead of an annual grant per head of population now allowed, the annual payment hereafter be at the same rate of eighty cents per head, but on the population of each province, as ascertained from time to time by the last decennial census, or in the case of the provinces of Manitoba, Saskatchewan, and Alberta respectively, by the last quinquennial census or statutory estimate, until such population exceeds 2,500,000, and at the rate of sixty cents per head for so much of said population as may exceed 2,500,000.

C. An additional allowance to the extent of one hundred thousand dollars annually be paid for ten years to the province of British Columbia.

D. Nothing herein contained shall in any way supersede or affect the terms special to any particular province upon which such province became part of the Dominion of Canada, or the right of any province to the payment of any special grant heretofore made by the Parliament of Canada to any province for any special purpose in such grant expressed.

We pray that Your Majesty may be graciously pleased to cause a measure to be laid before the Imperial Parliament at its present Session repealing the provisions of section 118 of the British North America Act, 1867, aforesaid, and substituting therefor the scale of payments above set forth, which shall be a final and unalterable settlement of the amounts to be paid yearly to the several provinces of the Dominion for their local purposes, and the support of their Governments and Legislatures.

Such grants shall be made half-yearly in advance to each province, but the Government of Canada shall deduct from such grants as against any province all sums chargeable as interest on the public debt of that province in excess of the several amounts stipulated in the said Act.

All of which we humbly pray Your Majesty to take into your favourable and gracious consideration.

(Signed) R. DANDURAND,
Speaker of the Senate.

(Signed) R. F. SUTHERLAND,
Speaker of the House of Commons.

Senate and House of Commons,
Ottawa, Canada,
26th April, 1907. ⁽⁸⁸⁾

⁽⁸⁸⁾ "As early as 1869 increased subsidies were granted to Nova Scotia by Dominion statute. Edward Blake moved in the Canadian House of Commons against that procedure on the ground that it was an unauthorized assumption of power on the part of the Dominion, but the Dominion parliament declined to accept his view and the law officers of the Crown in London, when consulted, advised that the Act was one which the Dominion parliament was competent to pass under section 91. Later in the same year the Legislature of Ontario voted an address to the Queen to have it declared that parliament had not power to disturb the financial relations between the Dominion and the several provinces as established in the B.N.A. Act. Blake, admitting that the Federal parliament now possessed the power to vary those relations, in view of the interpretation that had been given by the law officers, sought vainly to prevent the power being used—but a resolution was passed by the House of Commons by 130 to 10, against any further increases in provincial grants, a resolution which proved not worth the paper it was written on. Mr. J. A. Maxwell sums up the development thus: "In the sixty odd years since 1869, there have been three general revisions scaling up the grants given to all the provinces, and more than a score of special revisions affecting every one. Despite heavy withdrawals from capital account (i.e. debt allowances) the four original provinces in 1928-1929 drew more than 3½ times as much from the federal treasury as had been promised in the B.N.A. Act." (Dr. O. D. Skelton, *op. cit.* p. 33.)

THE BRITISH NORTH AMERICA ACT, 1915.⁽⁸⁹⁾

5-6 GEORGE V, CHAPTER 45.

An Act to amend the British North America Act, 1867.

[19th May, 1915]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) Notwithstanding anything in the British North America Act, 1867, or in any Act amending the same, or in any Order in Council or terms or conditions of union made or approved under the said Acts or in any Act of the Canadian Parliament—

Alteration
of con-
stitution
of Senate.
30 and 31
Vict., c. 3.

- (i) The number of senators provided for under section twenty-one of the British North America Act, 1867, is increased from seventy-two to ninety-six:
- (ii) The Divisions of Canada in relation to the constitution of the Senate provided for by section twenty-two of the said Act are increased from three to four, the Fourth Division to comprise the Western Provinces of Manitoba, British Columbia, Saskatchewan, and Alberta, which four Divisions shall (subject to the provisions of the said Act and of this Act) be equally represented in the Senate, as follows:—Ontario by twenty-four senators; Quebec by twenty-four senators; the Maritime Provinces and Prince Edward Island by twenty-four senators, ten thereof representing Nova Scotia, ten thereof representing New Brunswick, and four thereof representing Prince Edward Island; the Western Provinces by twenty-four senators, six thereof representing Manitoba, six thereof representing British Columbia, six thereof representing Saskatchewan, and six thereof representing Alberta:
- (iii) The number of persons whom by section twenty-six of the said Act the Governor General of Canada may, upon the direction of His Majesty the King, add to the Senate is increased from three or six to four or eight, representing equally the four divisions of Canada:

⁽⁸⁹⁾ Dr. Skelton's comments in the case of this amendment are as follows (*op. cit.* p. 35):—

"Object: To increase the number of senators and alter the main senatorial divisions.

Procedure: The procedure adopted was that the Act was passed by the United Kingdom parliament following an address by the Senate and House of Commons of Canada. Prince Edward Island made representations before a House of Commons committee, which were not accepted. Other provinces were not consulted and made no representations. The suggestion was made in the House of Commons by Mr. O. Turgeon, now Senator Turgeon, that the provinces should be consulted, but it was not acted upon."

- (iv) In case of such addition being at any time made the Governor General of Canada shall not summon any person to the Senate except upon a further like direction by His Majesty the King on the like recommendation to represent one of the four Divisions until such Division is represented by twenty-four senators and no more:
- (v) The number of senators shall not at any time exceed one hundred and four:
- (vi) The representation in the Senate to which by section one hundred and forty-seven of the British North America Act, 1867, Newfoundland would be entitled in case of its admission to the Union is increased from four to six members, and in case of the admission of Newfoundland into the Union, notwithstanding anything in the said Act or in this Act, the normal number of senators shall be one hundred and two, and their maximum number one hundred and ten:
- (vii) Nothing herein contained shall affect the powers of the Canadian Parliament under the British North America Act, 1886.

49 and 50
Vict., c. 35.

Repealed
17-18 Geo. V,
c. 42.

(2) *Paragraphs (i) to (vi) inclusive of subsection (1) of this section shall not take effect before the termination of the now existing Canadian Parliament.*⁽⁹⁰⁾

Constitution
of House of
Commons.

2. The British North America Act, 1867, is amended by adding thereto the following section immediately after section fifty-one of the said Act:—

“51A. Notwithstanding anything in this Act a province shall always be entitled to a number of members in the House of Commons not less than the number of senators representing such province.

Short title.

3. This Act may be cited as the British North America Act, 1915, and the British North America Acts, 1867 to 1886, and this Act may be cited together as the British North America Acts, 1867 to 1915.

Subsection two of section one.

⁽⁹⁰⁾ Repealed by the Statute Law Revision Act, 1927 (Chapter 42). See *supra* p. 86.

THE BRITISH NORTH AMERICA ACT, 1916.⁽⁹¹⁾

6-7 GEORGE V, CHAPTER 19.

An Act to amend the British North America Act, 1867. A.D. 1916.

[1st June, 1916.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this Present Parliament assembled, and by the authority of the same, as follows:—

1. *Notwithstanding anything in the British North America Act, 1867, or in any Act amending the same, or in any Order in Council, or terms or conditions of Union, made or approved under the said Act, or under any Act of the Canadian Parliament, the term of the Twelfth Parliament of Canada is hereby extended until the seventh day of October, nineteen hundred and seventeen.*

2. *This Act may be cited as the British North America Act, 1916, and the British North America Acts, 1867 to 1915, and this Act may be cited together as the British North America Acts, 1867 to 1916.*

⁽⁹¹⁾ Dr. Skelton comments (*op. cit.* p. 35):—

"The object of this amendment was to lengthen the term of the existing Parliament for one year. The procedure was on an address by both houses. The provinces were not consulted and, as far as I recall, they were not referred to in the debate."

This Act was repealed by the Statute Law Revision Act, 1927 (chapter 42). See *supra* p. 86.

THE STATUTE LAW REVISION ACT, 1927.⁽⁹²⁾

17-18 GEORGE V, CHAPTER 42.

An Act for further promoting the Revision of the Statute Law by repealing Enactments which have ceased to be in force or have become unnecessary.

[22nd December, 1927.]

WHEREAS, etc.

.

Enactments
in schedule
repealed.

1. The enactments described in Parts I and II of the Schedule to this Act are hereby repealed, subject to the provisions of this Act and subject to the exceptions and qualifications in the said schedule mentioned; and every part of a title, preamble, or recital specified after the words "in part, namely," in connexion with an Act mentioned in the said schedule may be omitted from any revised edition of the statutes published by authority after the passing of this Act, and there may be added in the said edition such brief statement of the Acts, officers, persons, and things mentioned in the title, preamble, or recital, as may in consequence of such omission appear necessary:

Provided as follows:—etc.

.

Short title
and extent.

4. (1) This Act may be cited as the Statute Law Revision Act, 1927, etc.

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SCHEDULE

REPEAL

Reign and Chapter	Short Title
	(<i>Inter alia</i>)
5 and 6 Geo. 5, c. 45.	The British North America Act, 1915. In part, namely,— Section one, subsection (2).
c 19.	The British North America Act, 1916.

⁽⁹²⁾ See note ⁽⁸⁵⁾ *ante*.

Subsection (2) of section one of ch. 45 of the Act of 1915 simply referred to the coming into force of certain paragraphs of the said section. The Act of 1916 was for the purpose of lengthening the term of the existing Parliament for one year.

THE BRITISH NORTH AMERICA ACT, 1930

20-21 GEORGE V, CHAPTER 26

An Act to confirm and give effect to certain agreements entered into between the Government of the Dominion of Canada and the Governments of the Provinces of Manitoba, British Columbia, Alberta and Saskatchewan respectively.

[10th July, 1930.]

WHEREAS the agreements set out in the Schedule to this Act were entered into between the Government of the Dominion of Canada and the Governments of the Provinces of Manitoba, British Columbia, Alberta and Saskatchewan respectively subject, however, in each case to approval by the Parliament of Canada and the Legislature of the Province to which the agreement relates and also to confirmation by the Parliament of the United Kingdom:

And whereas each of the said agreements has been duly approved by the Parliament of Canada and by the Legislature of the Province to which it relates:

And whereas, after the execution of the said agreement relating to the Province of Alberta, it was agreed between the parties concerned, subject to such approval and confirmation as aforesaid, that the said Province should, in addition to the rights accruing to it under the said agreement as originally executed, be entitled to such further rights, if any, with respect to the subject matter of the said agreement as were required to be vested in the Province in order that it might enjoy rights equal to those which might be conferred upon or reserved to the Province of Saskatchewan under any agreement upon a like subject matter thereafter approved and confirmed in the manner aforesaid, and provision in that behalf was accordingly made by the Parliament of Canada and the Legislature of the Province of Alberta when approving the said agreement:

And whereas the Senate and Commons of Canada in Parliament assembled have submitted an address to His Majesty praying that His Majesty may graciously be pleased to give his consent to the submission of a measure to the Parliament of the United Kingdom for the confirmation of the said agreements:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Confirmation of scheduled agreements. 30 & 35 Vict., c. 3.

1. The agreements set out in the Schedule to this Act are hereby confirmed and shall have the force of law notwithstanding anything in the British North America Act, 1867, or any Act amending the same, or any Act of Parliament of Canada, or in any Order in Council or terms or conditions of union made or approved under any such Act as aforesaid.

Extension of scheduled agreement relating to Alberta.

2. The agreement relating to the Province of Alberta which is confirmed by this Act shall be construed and have effect for all purposes as if it contained a provision to the following effect, namely, that the said Province shall, in addition to the rights accruing to it under the said agreement as originally executed, be entitled to such further rights, if any, with respect to the subject matter of the said agreement as are required to be vested in the Province in order that it may enjoy rights equal to those conferred upon, or reserved to, the Province of Saskatchewan under the agreement relating to that Province which is confirmed by this Act.

Short title.

3. This Act may be cited as the British North America Act, 1930, and the British North America Acts, 1867 to 1916, and this Act may be cited together as the British North America Acts, 1867 to 1930.

SCHEDULE ⁽⁹³⁾

⁽⁹³⁾ The Schedule to the British North America Act 1930 contains memoranda of Agreements between Canada and the Western Provinces. As these Agreements are subsequently printed in Part IV, entitled Acts of Canada (Relating to Provincial Matters), it has not been judged necessary that they should be transcribed twice.

- (1) For the Memorandum of Agreement between Canada and Manitoba, and between Canada, Ontario and Manitoba, *see* The Manitoba Natural Resources Act, p. 295.
- (2) For the Memorandum of Agreement between Canada and Alberta, *see* The Alberta Natural Resources Act, p. 260.
- (3) For the Memorandum of Agreement between Canada and Saskatchewan, *see* The Saskatchewan Natural Resources Act, p. 311.
- (4) For the Memorandum of Agreement between Canada and British Columbia, *see* The Railway Belt and Peace River Block Act, p. 286.

BRITISH NORTH AMERICA ACT, 1940. ⁽⁹⁴⁾

3-4 GEORGE VI, CHAPTER 36.

An Act to include unemployment insurance among the classes of subjects enumerated in section ninety-one of the British North America Act, 1867.

[10th July, 1940.]

WHEREAS the Senate and Commons of Canada in Parliament assembled have submitted an address to His Majesty praying that His Majesty may graciously be pleased to cause a Bill to be laid before the Parliament of the United Kingdom for the enactment of the provisions hereinafter set forth:—

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. Section ninety-one of the British North America Act, 1867, is amended by inserting therein, after item 2 "The regulation of trade and commerce", the following item:—

"2A. Unemployment insurance."

Extension of exclusive legislative authority of Parliament of Canada. 30 & 31 Vict. c. 3.

2. This Act may be cited as the British North America Act, 1940, and the British North America Acts, 1867 to 1930, the British North America Act, 1907, and this Act may be cited together as the British North America Acts, 1867 to 1940.

Short title and citation. 7 Edw. 7, c. 11.

⁽⁹⁴⁾ The procedure in this case was that the Act was passed by the Parliament of the United Kingdom in accordance with an address from the Senate and House of Commons.

The address was moved (and the motion agreed to) in the House of Commons of the 25 of June, 1940. The provinces had been previously consulted and all of them had consented to the amendment being made.

It is interesting to note in connection with this matter that *The Unemployment and Social Insurance Act* (chapter 38 of the Statutes of Canada, 1935) had been declared *ultra vires* by a majority of the Supreme Court of Canada in 1936 and by the Judicial Committee of the Privy Council on the 28th of January, 1937, thus necessitating the amendment of the B.N.A. Act.

Less than a week after the amendment had been adopted by the Parliament of the United Kingdom *The Unemployment Insurance Act, 1940* (3-4 Geo. VI, ch. 44) was introduced in the House of Commons of Canada. The Bill was assented to on the 7th of August, 1940.

BRITISH NORTH AMERICA ACT, 1943.⁽⁹⁵⁾

7 GEORGE VI, CHAPTER 30.

An Act to provide for the readjustment of the representation of the provinces in the House of Commons of Canada consequent on the decennial census taken in the year One thousand nine hundred and forty-one.

[22nd July, 1943.]

WHEREAS the Senate and House of Commons of Canada in Parliament assembled have submitted an address to His Majesty praying that His Majesty may graciously be pleased to cause a Bill to be laid before the Parliament of the United Kingdom for the enactment of the provisions hereinafter set forth:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Postponement
of redistribu-
tion of seats
in Commons.

1. Notwithstanding anything in the British North America Acts, 1867 to 1940, it shall not be necessary that the representation of the provinces in the House of Commons of Canada be readjusted, in consequence of the completion of the decennial census taken in the year one thousand nine hundred and forty-one, until the first session of the Parliament of Canada commencing after the cessation of hostilities between Canada and the German Reich, the Kingdom of Italy and the Empire of Japan.

Short title
and citation.

2. This Act may be cited as the British North America Act, 1943, and the British North America Acts, 1867 to 1940, and this Act may be cited together as the British North America Acts, 1867 to 1943.

⁽⁹⁵⁾ This Act was passed by the Parliament of the United Kingdom in accordance with an address from the Senate and from the House of Commons. It does not appear that the provinces were consulted. On the other hand, a protest was made by the Legislature of the province of Quebec against the adoption of the measure.

The reasons for the address are given in the preamble to the resolution preceding it as follows:—

“That whereas provisions of the British North America Act require that, on the completion of each decennial census, the representation of the provinces in the House of Commons shall be readjusted;

And whereas such readjustment involves in fact the determination of the number of members to represent each province and the number of electoral divisions within each province and the delimitation of such electoral divisions;

And whereas Canada has been at war since September 10, 1939, and hostilities may continue for an indefinite period;

And whereas the census of 1941 was taken during the progress of hostilities;

And whereas the effect of enlistment in the armed forces of Canada and of employment in the production of munitions of war has been to remove large numbers of the population from their homes to serve in and with such armed forces either in other parts of Canada or overseas or to reside temporarily in other parts of Canada;

And whereas experience has shown that such readjustment may give rise to sharp differences of opinion as to the appropriate delimitation of electoral divisions, which differences it is most desirable to avoid while Canada continues at war;

And whereas in these circumstances it does not now seem desirable that readjustment of representation on the basis of the census of 1941 should have to be made during the continuance of the hostilities in which Canada is now engaged,

A humble address be presented to His Majesty the King in the following words:—
Here follows the address and the draft of the Bill which is in the exact terms of the Act above.

The measure and its purpose were fully explained by the Minister of Justice, Mr. Saint-Laurent in the House of Commons on the fifth of July, 1943.

BRITISH NORTH AMERICA ACT, 1946⁽⁹⁶⁾

10 GEORGE VI, CHAPTER 63.

An Act to provide for the readjustment of representation in the House of Commons of Canada on the basis of the population of Canada.

[Assented to 26th July, 1946.]

WHEREAS the Senate and House of Commons of Canada in Parliament assembled have submitted an address to His Majesty praying that His Majesty may graciously be pleased to cause a Bill to be laid before the Parliament of the United Kingdom for the enactment of the provisions hereinafter set forth;

Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

⁽⁹⁶⁾ As in the case of the other amendments to the B.N.A. Act, the Act of the Parliament of the United Kingdom was passed pursuant to a joint resolution of the Senate and House of Commons of Canada.

This Resolution was moved in the House on the 28th of May, 1946, by Mr. St. Laurent for Mr. Mackenzie King and read as follows:—

That, whereas by the British North America Act, 1867, it is provided that in respect of representation in the House of Commons the province of Quebec shall have the fixed number of sixty-five members;

And whereas the said Act provides that there shall be assigned to each of the other provinces such a number of members as will bear the same proportion to the number of its population as the number sixty-five bears to the number of the population of Quebec;

And whereas the said Act provides for the readjustment of representation on the completion of each decennial census, and that on any such readjustment the number of members for a province shall not be reduced unless the proportion which the number of the population of the province bore to the number of the aggregate population of Canada at the then last preceding readjustment of the number of members for the province is ascertained at the then latest census to be diminished by one twentieth part or upwards;

And whereas the effect of the aforesaid provisions has not been satisfactory in that proportionate representation of the provinces according to population has not been maintained;

And whereas it is considered that a more equitable apportionment of members to the various provinces could be effected if readjustment were made on the basis of the population of all the provinces taken as a whole.

A humble address be presented to His Majesty The King in the following words:

We, Your Majesty's most dutiful and loyal subjects, the Members of the House of Commons of Canada in Parliament assembled, humbly approach Your Majesty, praying that You may graciously be pleased to cause a measure to be laid before the Parliament of the United Kingdom to be expressed as follows:

"An Act to provide for the readjustment of representation in the House of Commons of Canada on the basis of the population of Canada;"

Then follows the Act exactly as it appears above, starting with the words "Whereas the Senate and House of Commons of Canada . . ." etc.,

On the sixth of June Mr. Diefenbaker moved that there should be consultation with the several provinces before presenting the address to His Majesty. His motion was negatived by a vote of 108 to 42 on the 20th of June, and the main motion was agreed to on the same date on a vote of 107 yeas and 22 nays.

The resolution was subsequently moved in the Senate by Senator Copp for Senator Robertson on the 2nd of July and carried on the 5th of July on the following division: 24 yeas to 7 nays.

New
provision as
to readjust-
ment of
representation
in Commons.
30 & 31
Vict., c. 3.

1. Section fifty-one of the British North America Act, 1867, is hereby repealed and the following substituted therefor:

“51.—(1) The number of members of the House of Commons shall be two hundred and fifty-five and the representation of the provinces therein shall forthwith upon the coming into force of this section and thereafter on the completion of each decennial census be readjusted by such authority, in such manner, and from such time as the Parliament of Canada from time to time provides, subject and according to the following rules:—

1. Subject as hereinafter provided, there shall be assigned to each of the provinces a number of members computed by dividing the total population of the provinces by two hundred and fifty-four and by dividing the population of each province by the quotient so obtained, disregarding, except as hereinafter in this section provided, the remainder, if any, after the said process of division.

2. If the total number of members assigned to all the provinces pursuant to rule one is less than two hundred and fifty-four, additional members shall be assigned to the provinces (one to a province) having remainders in the computation under rule one commencing with the province having the largest remainder and continuing with the other provinces in the order of the magnitude of their respective remainders until the total number of members assigned is two hundred and fifty-four.

3. Notwithstanding anything in this section, if upon completion of a computation under rules one and two, the number of members to be assigned to a province is less than the number of senators representing the said province, rules one and two shall cease to apply in respect of the said province, and there shall be assigned to the said province a number of members equal to the said number of senators.

4. In the event that rules one and two cease to apply in respect of a province then, for the purpose of computing the number of members to be assigned to the provinces in respect of which rules one and two continue to apply, the total population of the provinces shall be reduced by the number of the population of the province in respect of which rules one and two have ceased to apply and the number two hundred and fifty-four shall be reduced by the number of members assigned to such province pursuant to rule three.

5. Such readjustment shall not take effect until the termination of the then existing Parliament.

(2) The Yukon Territory as constituted by Chapter forty-one of the Statutes of Canada, 1901, together with any Part of Canada not comprised within a province which

may from time to time be included therein by the Parliament of Canada for the purposes of representation in Parliament, shall be entitled to one member.”

2. This Act may be cited as the British North America Act, 1946, and the British North America Acts, 1867 to 1943, and this Act may be cited together as the British North America Acts, 1867 to 1946. Short title and citation.

STATUTE OF WESTMINSTER, 1931.

STATUTE OF WESTMINSTER, 1931.

[22 GEO. 5. CH. 4.]

A.D. 1931.

ARRANGEMENT OF SECTIONS.

Section.

1. Meaning of "Dominion" in this Act
2. Validity of laws made by Parliament of a Dominion.
3. Power of Parliament of Dominion to legislate extra-territorially.
4. Parliament of United Kingdom not to legislate for Dominion except by consent.
5. Powers of Dominion Parliaments in relation to merchant shipping.
6. Powers of Dominion Parliaments in relation to Courts of Admiralty.
7. Saving for British North America Acts and application of the Act to Canada.
8. Saving for Constitution Acts of Australia and New Zealand.
9. Saving with respect to States of Australia.
10. Certain sections of Act not to apply to Australia, New Zealand or Newfoundland unless adopted.
11. Meaning of "Colony" in future Acts.
12. Short title.

THE STATUTE OF WESTMINSTER, 1931.

22 GEORGE V, CHAPTER 4.

An Act to give effect to certain resolutions passed by Imperial Conferences held in the years 1926 and 1930.⁽⁹⁷⁾ A.D. 1931.

[11th December, 1931.]

WHEREAS the delegates to His Majesty's Governments in the United Kingdom, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland, at Imperial Conferences holden at Westminster in the years of our Lord nineteen hundred and twenty-six and nineteen hundred and thirty did concur in making the declarations and resolutions set forth in the Reports of the said Conferences:

And whereas it is meet and proper to set out by way of preamble to this Act that, inasmuch as the Crown is the symbol of the free association of the members of the British Commonwealth of Nations, and as they are united by a common allegiance to the Crown, it would be in accord with the established constitutional position⁽⁹⁸⁾ of all the members of the Commonwealth in relation to one another that any alteration in the law touching the Succession to the Throne⁽⁹⁹⁾ or the Royal Style and Titles⁽¹⁰⁰⁾ shall hereafter require the assent as well of the Parliaments of all the Dominions as of the Parliament of the United Kingdom:

And whereas it is in accord with the established constitutional position that no law hereafter made by the Parliament of

⁽⁹⁷⁾ The Statute of Westminster was passed to confirm and ratify certain declarations made by the Delegates to the Imperial Conferences of 1926 and 1930. The Dominions represented at the Conferences were Canada, Australia, New Zealand, South Africa, the Irish Free State, Newfoundland and India, although the latter is not touched by the Statute.

⁽⁹⁸⁾ As to this constitutional position one may quote a passage in the report of the Inter-Imperial Relations Committee of the Imperial Conference of 1926 usually called "The Balfour Declaration":—

"They are autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or internal affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth." Imperial Conference, 1926, Summary of Proceedings, page 12.

⁽⁹⁹⁾ Although the desiderata set out in the Preamble respecting the Succession to the Throne is not followed by any positive enactment in the enacting part of the Statute, pursuant to the recital in the Preamble and to the provision of section four of the Statute, after King Edward VIII had executed the instrument of abdication it was found necessary to declare the assent of the Parliament of Canada to the alteration in the law touching the Succession to the Throne and in March, 1937 "An Act respecting alteration in the law touching the Succession to the Throne" (ch. 16) was passed for the purpose of consenting to the Act of the United Kingdom intituled "His Majesty's declaration of Abdication Act, 1936." See Note (187) to the Succession to the Throne Act (Canada).

⁽¹⁰⁰⁾ The Royal style and titles are now "George VI, by the Grace of God of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India." (See the Royal and Parliamentary Titles Act, 1927, chapter 4 of the Statutes of the U.K., 1927). This was in accordance with the recommendation of the Imperial Conference, 1926, (Summary of Proceedings, page 13).

the United Kingdom shall extend to any of the said Dominions as part of the law of that Dominion otherwise than at the request and with the consent of that Dominion.⁽¹⁰¹⁾

And whereas it is necessary for the ratifying, confirming and establishing of certain of the said declarations and resolutions of the said Conferences that a law be made and enacted in due form by authority of the Parliament of the United Kingdom:

And whereas the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland have severally requested and consented to the submission of a measure to the Parliament of the United Kingdom for making such provision with regard to the matters aforesaid as is hereafter in this Act contained: ⁽¹⁰²⁾

Now, therefore, be it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Meaning of
"Dominion,"
in this Act.

1. In this Act the expression "Dominion" means any of the following Dominions, that is to say, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland.

Validity of
laws made by
Parliament of
a Dominion.
28 & 29 Vict.
c. 63.

2. (1) The Colonial Laws Validity Act, 1865, shall not apply to any law made after the commencement of this Act by the Parliament of a Dominion.

(2) No law and no provision of any law made after the commencement of this Act by the Parliament of a Dominion shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any existing or future Act of Parliament of the United Kingdom, or to any order, rule, or regulation made under any such Act, and the powers of the Parliament of a Dominion shall include the power

⁽¹⁰¹⁾ The second and third paragraphs of the Preamble are declaratory of constitutional conventions. The second is not even translated into an enactment. The third is translated into law by section four of the Statute, it accepts and confirms the following proposition in the Report of the Conference of 1926:—

"On the question raised with regard to the legislative competence of members of the British Commonwealth of Nations other than Great Britain, and in particular to the desirability of those members being enabled to legislate with extra-territorial effect, we think that it should similarly be placed on record that the constitutional practice is that legislation by the Parliament at Westminster applying to a Dominion would only be passed with the consent of the Dominion concerned." (Summary of Proceedings, page 15.).

⁽¹⁰²⁾ The House of Commons and the Senate of Canada on the 30th of June and 8th of July, 1931, respectively, adopted an address to His Majesty in order that there may be passed a statute of the Parliament of the United Kingdom to enact paragraphs 2 and 3 of the Preamble and sections 2, 3, 4, 5, 6, 7 and 11. (See the speech of the Rt. Hon. R. B. Bennett, Prime Minister of Canada, starting at page 3191 of the House of Commons Debates, 1931, in which he said that "the Statute of Westminster is the culmination of the long, long effort that has been made since we were a colony, to become the self-governing dominion that we now are". In the said speech he made a short historical sketch of the various steps taken, more particularly reviewing what transpired at the conferences of 1926, 1929 and 1930. See also the speeches of Messrs. Lapointe, Ralston and Bourassa which follow.

to repeal or amend any such Act, order, rule or regulation in so far as the same is part of the law of the Dominion.⁽¹⁰³⁾

3. It is hereby declared and enacted that the Parliament of a Dominion has full power to make laws having extra-territorial operation.⁽¹⁰⁴⁾

Power of Parliament of Dominion to legislate extra territorially.

4. No Act of Parliament of the United Kingdom passed after the commencement of this Act shall extend or be deemed to extend, to a Dominion as part of the law of that Dominion, unless it is expressly declared in that Act that that Dominion has requested, and consented to, the enactment thereof.⁽¹⁰⁵⁾

Parliament of United Kingdom not to legislate for Dominion except by consent.

5. Without prejudice to the generality of the foregoing provisions of this Act, sections seven hundred and thirty-five and seven hundred and thirty-six of the Merchant Shipping

Powers of Dominion Parliaments in relation to merchant shipping. 57 & 58 Vict. c. 60.

⁽¹⁰³⁾ Pursuant to the declarations which had been made at the Conference of 1926, the conference of experts which met in 1929 recommended the repeal of this Act of 1865 which had been passed in the first instance to extend the powers of colonial legislatures beyond the narrow limits assigned to them by judicial decisions. The Act of 1865 had declared that laws passed by a colony should not be invalid unless they were repugnant to some Act of Parliament which applied to the colony, and only to the extent of such repugnancy. (See *Nadan vs. The King*, 1926 A.C. p. 482.)

To repeal the Act of 1865 was not sufficient, for there was a danger that the repeal might be held to restore the old common law doctrine; it was therefore considered necessary to indicate that the Acts adopted by a Dominion since 1865 could not become inoperative on account of being repugnant to the law of England.

The provinces (especially Ontario and Quebec) requested and obtained at the Interprovincial Conference which sat during April, 1931, that the benefits of section 2 be extended to them and this is the reason for the enactment of subsection (2) of section 7 of the Statute.

⁽¹⁰⁴⁾ The right of extra-territoriality, which is one of the attributes of sovereignty, is the operation of laws upon the persons, the rights and the statutes existing outside of the limits of a state but continuing however to be subject to the laws of that state. It means for a nation the right to legislate for its own nationals outside of the limits of territorial waters, in such a way as to subject them to its own laws when they return to their country's jurisdiction.

Our limitations with respect to extra-territoriality previously extended notably to fisheries, taxes, navigation, aviation, marriage, criminal law, copyright, deportation and finally to the bringing into force of Acts on smuggling and illegal immigration.

Section 3 stipulates in an absolutely clear manner and without any restrictions that the Parliament of a Dominion has full power to make laws having extra-territorial operation.

This section does not apply to the legislatures of the provinces, thus avoiding the conflict of laws which might arise if each province had the power to enact laws having extra-territorial operation.

⁽¹⁰⁵⁾ The situation with respect to our right to legislate may be summarized as follows:—

In the beginning the United Kingdom would legislate for all its colonies without any form of consultation. The second period occurred when the colonies obtained the right to legislate subject to many restrictions, certain matters being reserved and remaining within the jurisdiction of the Parliament of the United Kingdom.

During a third period the Dominions were allowed to adopt for their own territory the British Statute, as in 1911 the Copyright Act and in 1914 the British Nationality Act.

A fourth period was that of consultation when the acts of interest to the whole Empire were to be adopted only after consultation of the different parties interested. For practical purposes, so far as uniformity of laws is required this period is still in existence, but the consultation has now become voluntary; for instance our Merchant Shipping Act has been enacted in conformity with the Convention respecting the British Commonwealth Merchant Shipping Agreement which has been signed in London on the 10th of December 1931.

The United Kingdom has itself limited its own power of legislating with respect to the Dominions by the adoption of section 4 of the Statute. As may be noticed from the perusal of this section, the British Acts referred to, are those which have been passed after the coming into force of the Statute of Westminster.

The Acts passed previously and which previously applied to the Dominions remain in force until our Parliament decides to repeal them. This section follows the recommendation of the Conference of 1930.

Act, 1894, shall be construed as though reference therein to the Legislature of a British possession did not include reference to the Parliament of a Dominion.⁽¹⁰⁶⁾

Powers of
Dominion
Parliaments
in relation
to Courts of
Admiralty.
53 & 54 Vict.
c. 27.

6. Without prejudice to a generality of the foregoing provisions of this Act, section four of the Colonial Courts of Admiralty Act, 1890 (which requires certain laws to be reserved for the signification of His Majesty's pleasure or to contain a suspending clause), and so much of section seven of that Act as requires the approval of His Majesty in Council to any rules of Court for regulating the practice and procedure of a Colonial Court of Admiralty, shall cease to have effect in any Dominion as from the commencement of this Act.⁽¹⁰⁷⁾

⁽¹⁰⁶⁾ Up to the time of the passing of the Statute of Westminster, Canada's legislative autonomy in matters relating to merchant shipping was circumscribed by the provisions of the Colonial Laws Validity Act, 1865, and also by sections 735 and 736 of the Merchant Shipping Act of 1894 (British) and from the fact that the Dominion could not give to its legislation extra-territorial effect.

The Merchant Shipping Act of 1854 applied to Great Britain and to its colonies, as there were then no Dominions. When the first Dominion was created in 1867, power was given to our federal Parliament to legislate as to navigation and merchant shipping. Our legislation, however, could be valid only in so far as it was not repugnant to that of the United Kingdom. A new British statute was passed in 1894 which was a consolidation of the Act of 1854 with the amendments made in the course of the past forty years.

Therefore the British Act of 1894 with the amendments made thereto up to 1911, also our own merchant shipping legislation have governed us up to the coming into force of our own statute passed in 1934. From 1911, it had been stipulated that the amendments made to the legislation of the United Kingdom would not apply to the Dominions.

We have mentioned previously that the Colonial Laws Validity Act was an obstacle to our autonomy in matters of shipping legislation and that another difficulty came from the fact that we could not pass laws having extra-territorial operation. These difficulties have ceased to exist from the operation of sections 2 and 3 of the Statute of Westminster already mentioned, which have cured these defects.

Section 2 states that the Colonial Laws Validity Act, 1865, shall not apply to any law made after the commencement of the Act by the Parliament of a Dominion, and section 3, that the Parliament of a Dominion has full power to make laws having extra-territorial operation. The non-application of the Colonial Laws Validity Act removed the main obstacle with respect to our right to legislate on merchant shipping.

However, it was not sufficient to state that the Colonial Laws Validity Act would not apply in the future nor to declare that the Dominion Parliament could make laws having extra-territorial operation, but it was also necessary that sections 735 and 736 of the Imperial Merchant Shipping Act should cease to apply to the Dominions, and this was done by section 5 of the Statute of Westminster.

For that reason, the Dominion has exercised that right by passing a new Merchant Shipping Act in 1934.

By passing that Act, the Dominion has exercised the absolute right it has of legislating with respect to ships, wherever they may come from, when they happen to be in Canadian waters; it has exercised its right to legislate as to ships registered in Canada, whether they be in Canadian waters or elsewhere, subject in that case to local laws when the ships happen to be in non-Canadian waters or ports.

⁽¹⁰⁷⁾ It is a moot question whether this section was necessary or not. The Colonial Courts of Admiralty Act of 1890 did govern, up to the passing of the Statute of Westminster, the constitution and, to a certain extent, the functioning of our courts of admiralty and had the effect of limiting their jurisdiction. Section 4 prevented the Dominion legislatures from extending their jurisdiction or affecting their procedure without the approval of the Secretary of State.

The jurisdiction of our court of admiralty was limited to that of the High Court of Admiralty in England; on the other hand since 1890 important additions were made to the admiralty jurisdiction of the High Court which were not aided to our own, that is to the jurisdiction of the Exchequer Court as a court of admiralty (chapter 29 of our statutes of 1891 had made the Exchequer Court a court of admiralty under the Colonial Courts of Admiralty Act).

The restrictions imposed upon us have now disappeared by virtue of section 6 of the statute. It will not be necessary any more that our enactments before coming into force be approved by the Sovereign in Council, and as we have seen in the note to section 2, the Dominion Parliament was given power to repeal Acts of the United Kingdom "in so far as the same is part of the law of the Dominion," which of course includes the power to repeal, as far as we are concerned, the Colonial Courts of Admiralty Act, 1890.

7. (1) Nothing in this Act shall be deemed to apply to the repeal, amendment or alteration of the British North America Acts, 1867 to 1930, or any order, rule or regulation made thereunder.⁽¹⁰⁸⁾

A.D. 1931.

Saving for British North America Acts and application of the Act to Canada.

(2) The provisions of section two of this Act shall extend to laws made by any of the Provinces of Canada and to the powers of the legislatures of such Provinces.⁽¹⁰⁹⁾

(3) The powers conferred by this Act upon the Parliament of Canada or upon the legislatures of the Provinces shall be restricted to the enactment of laws in relation to matters within the competence of the Parliament of Canada or of any of the legislatures of the Provinces respectively.⁽¹¹⁰⁾

8. Nothing in this Act shall be deemed to confer any power to repeal or alter the Constitution or the Constitution Act of the Commonwealth of Australia or the Constitution Act of the Dominion of New Zealand otherwise than in accordance with the law existing before the commencement of this Act.

Saving for Constitution Acts of Australia and New Zealand.

9. (1) Nothing in this Act shall be deemed to authorize the Parliament of the Commonwealth of Australia to make laws on any matter within the authority of the States of Australia, not being a matter within the authority of the Parliament or Government of the Commonwealth of Australia.

Saving with respect to States of Australia.

(2) Nothing in this Act shall be deemed to require the concurrence of the Parliament or Government of the Commonwealth of Australia, in any case where it would have been in United Kingdom with respect to any matter within the authority of the States of Australia, not being a matter within the authority of the Parliament or Government of the Commonwealth of Australia, in any case where it would have been in accordance with the constitutional practice existing before the commencement of this Act that the Parliament of the United Kingdom should make that law without such concurrence.

(3) In the application of this Act to the Commonwealth of Australia the request and consent referred to in section four shall mean the request and consent of the Parliament and Government of the Commonwealth.

10. (1) None of the following sections of this Act, that is to say, sections two, three, four, five and six, shall extend to a Dominion to which this section applies as part of the law of that Dominion unless that section is adopted by the Parliament of the Dominion, and any Act of that Parliament adopting any

Certain sections of Act not to apply to Australia, New Zealand or Newfoundland unless adopted.

⁽¹⁰⁸⁾ The British North America Acts, 1867 to 1930 referred to (to be found in this volume, *ante*) are the following:—

The British North America Act, 1867 (being the main Act).

The British North America Act, 1871 (Establishment of Provinces).

The British North America Act, 1886 (Representation of Territories).

The British North America Act, 1915 (Alteration of constitution of Senate).

The British North America Act, 1930 (Natural Resources).

⁽¹⁰⁹⁾ See Note (75) appended to section 2 of the Statute.

⁽¹¹⁰⁾ The areas of legislative competence of Canada and the provinces as delimited by sections 91 and 92 respectively are not altered so that no power is given here to Canada to invade provincial rights or to the provinces to affect the powers of the federal Parliament.

As to the distribution of legislative powers see the said sections 91 and 92 of the British North America Act, 1867, with notes appended thereto.

section of this Act may provide that the adoption shall have effect either from the commencement of this Act or from such later date as is specified in the adopting Act.

(2) The Parliament of any such Dominion as aforesaid may at any time revoke the adoption of any section referred to in subsection (1) of this section.

A.D. 1931.

(3) The Dominions to which this section applies are the Commonwealth of Australia, the Dominion of New Zealand and Newfoundland.

Meaning of
"Colony"
in future
Acts.
52 & 53 Vict.
c. 63.

11. Notwithstanding anything in the Interpretation Act, 1889, the expression "Colony" shall not, in any Act of the Parliament of the United Kingdom passed after the commencement of this Act, include a Dominion or any Province or State forming part of a Dominion.

Short title.

12. This Act may be cited as the Statute of Westminster, 1931.⁽¹¹¹⁾

⁽¹¹¹⁾ This is not the first and only "Statute of Westminster". Under Edward the First we find 3 Edward 1. A.D. 1275 "Les premiers Estatuts de Westminster" (this title from Lib. Scac. Westm. X fo. xxj [xxv], translated in English as "The STATUTES OF WESTMINSTER; The First". This code of 1275 dealt with Freedom of election, Reasonableness of Amerciaments, Distress, Champerty and Extortion by the King's officers, Deceits by pleaders, Excessive tolls in market towns, etc.

The Statute of Westminster the Second is the name given to the Code of 1285 (13 Edward 1. A.D. 1285) "Statuta Reg' Edwardi edita apud Westmon in Parlamento suo Pasch' anno Regni Sui T'ciodecimo:—xij°.

The Statute of Westminster the Third (18 Edward 1. A.D. 1289-90) is referred to as the Statute "Quia Emptores Terrarum" and has to do with the Selling and Buying of Land. In the printed copies and translations it is intituled "Statutum Westm. iij etc."

There is a fourth Statute of Westminster which contains the legislative sentence against the Dispensers passed at Westminster in the summer of 1321. See Stubbs "Constitutional History of England," Volume II, pages 368-378 (4th edition).

PART III.

IMPERIAL ORDERS IN COUNCIL.

ADMITTING RUPERT'S LAND, BRITISH COLUMBIA
AND PRINCE EDWARD ISLAND, RESPECTIVELY
INTO THE UNION.

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ORDER OF HER MAJESTY IN COUNCIL ADMIT-
TING RUPERT'S LAND AND THE NORTH-
WESTERN TERRITORY INTO THE
UNION.⁽¹¹²⁾

At the Court at *Windsor*, the 23rd day of *June*, 1870.

PRESENT

The QUEEN'S Most Excellent Majesty.

Lord President.

Lord Privy Seal.

Lord Chamberlain.

Mr. Gladstone.

WHEREAS by the British North America Act, 1867, it was (amongst other things) enacted that it should be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, on Address from the Houses of the Parliament of Canada, to admit Rupert's Land and the North-Western Territory, or either of them, into the Union on such terms and conditions in each case as should be in the Addresses expressed, and as the Queen should think fit to approve, subject to the provisions of the said Act. And it was further enacted that the provisions of any Order in Council in that behalf should have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland:

And whereas by an Address from the Houses of the Parliament of Canada, of which Address a copy is contained in the Schedule to this Order annexed, marked A, Her Majesty was prayed, by and with the advice of Her Most Honourable Privy Council, to unite Rupert's Land and the North-Western Territory with the Dominion of Canada, and to grant to the Parliament of Canada authority to legislate for their future welfare and good government upon the terms and conditions therein stated:

And whereas by the Rupert's Land Act, 1868, it was (amongst other things) enacted that it should be competent for the Governor and Company of Adventurers of England trading into Hudson's Bay (hereinafter called the Company) to surrender to Her Majesty, and for Her Majesty, by any Instrument under Her Sign Manual and Signet to accept a surrender of all or any of the lands, territories, rights, privileges, liberties, franchises, powers, and authorities whatsoever, granted or purported to be granted by certain Letters Patent therein recited to the said Company within Rupert's Land, upon such terms and conditions as should be agreed upon by and between Her

⁽¹¹²⁾ See notes to section 146 of the B.N.A. Act, 1867, also notes to section 2 of the B.N.A. Act, 1871 (in Part I), and also notes to the Manitoba Act, 1870, in Part III.

Majesty and the said Company; provided, however, that such surrender should not be accepted by Her Majesty until the terms and conditions upon which Rupert's Land should be admitted into the said Dominion of Canada should have been approved of by Her Majesty and embodied in an Address to Her Majesty from both the Houses of the Parliament of Canada, in pursuance of the 146th Section of the British North America Act, 1867.

And it was by the same Act further enacted that it should be competent to Her Majesty, by Order or Orders in Council, on Addresses from the Houses of the Parliament of Canada, to declare that Rupert's Land should, from a date to be therein mentioned, be admitted into and become part of the Dominion of Canada;

And whereas a second Address from both the Houses of the Parliament of Canada has been received by Her Majesty praying that Her Majesty will be pleased under the provisions of the hereinbefore recited Acts, to unite Rupert's Land on the terms and conditions expressed in certain Resolutions therein referred to and approved of by Her Majesty, of which said Resolutions and Address copies are contained in the Schedule to this Order annexed, marked B, and also to unite the North-Western Territory with the Dominion of Canada, as prayed for by and on the terms and conditions contained in the hereinbefore first recited Address, and also approved of by Her Majesty:

And whereas a draft surrender has been submitted to the Governor General of Canada containing stipulations to the following effect, viz.:—

1. The sum of 300,000*l*. (being the sum hereinafter mentioned) shall be paid by the Canadian Government into the Bank of England to the credit of the Company within six calendar months after acceptance of the surrender aforesaid, with interest on the said sum at the rate of 5 per cent per annum, computed from the date of such acceptance until the time of such payment.

2. The size of the blocks which the Company are to select adjoining each of their forts in the Red River limits, shall be as follows:

	Acres.
Upper Fort Garry and town of Winnipeg, including the inclosed park around shop and ground at the entrance to the town..	500
Lower Fort Garry (including the farm the Company now have under cultivation)..	500
White Horse Plain.....	500

3. The deduction to be made as hereinafter mentioned from the price of the materials of the Electric Telegraph, in respect of deterioration thereof, is to be certified within three calendar months from such acceptance as aforesaid by the agents of the Company in charge of the depots where the materials are stored. And the said price is to be paid by the Canadian Government into the Bank of England to the credit

of the Company within six calendar months of such acceptance, with interest at the rate of 5 per cent per annum on the amount of such price, computed from the date of such acceptance until the time of payment:

And whereas the said draft was on the fifth day of July, one thousand eight hundred and sixty-nine, approved by the said Governor General in accordance with a Report from the Committee of the Queen's Privy Council for Canada; but it was not expedient that the said stipulations, not being contained in the aforesaid second Address, should be included in the surrender by the said Company to Her Majesty of their rights aforesaid or in this Order in Council.

And whereas the said Company did by deed under the seal of the said Company, and bearing date the nineteenth day of November, one thousand eight hundred and sixty-nine, of which deed a copy is contained in the Schedule to this Order annexed, marked C, surrender to Her Majesty all the rights of government, and other rights, privileges, liberties, franchises, powers and authorities granted, or purported to be granted to the said Company by the said Letters Patent herein and hereinbefore referred to, and also all similar rights which may have been exercised or assumed by the said Company in any parts of British North America not forming part of Rupert's Land, or of Canada or of British Columbia, and all the lands and territories (except and subject as in the terms and conditions therein mentioned) granted or purported to be granted to the said Company by the said Letters Patent:

And whereas such surrender has been duly accepted by Her Majesty, by an instrument under Her Sign Manual and Signet, bearing date at Windsor the twenty-second day of June, one thousand eight hundred and seventy:

It is hereby Ordered and declared by Her Majesty, by and with the advice of the Privy Council, in pursuance and exercise of the powers vested in Her Majesty by the said Acts of Parliament, that from and after the fifteenth day of July, one thousand eight hundred and seventy, the said North-Western Territory shall be admitted into and become part of the Dominion of Canada upon the terms and conditions set forth in the first hereinbefore recited Address, and that the Parliament of Canada shall from the day aforesaid have full power and authority to legislate for the future welfare and good government of the said Territory. And it is further ordered that, without prejudice to any obligations arising from the aforesaid approved Report, Rupert's Land shall from and after the said date be admitted into and become part of the Dominion of Canada upon the following terms and conditions, being the terms and conditions still remaining to be performed of those embodied in the said second address of the Parliament of Canada, and approved by Her Majesty as aforesaid:—

1. Canada is to pay to the Company 300,000*l*, when Rupert's Land is transferred to the Dominion of Canada.

2. The Company are to retain the posts they actually occupy in the North-Western Territory, and may, within twelve months of the surrender, select a block of land adjoining

each of its posts within any part of British North America not comprised in Canada and British Columbia, in conformity, except as regards the Red River Territory, with a list made out by the Company and communicated to the Canadian Ministers, being the list in the Schedule of the aforesaid Deed of Surrender. The actual survey is to be proceeded with, with all convenient speed.

3. The size of each block is not to exceed [10] acres round Upper Fort Garry, [300] acres round Lower Fort Garry; in the rest of the Red River Territory a number of acres to be settled at once between the Governor in Council and the Company, but so that the aggregate extent of the blocks is not to exceed 50,000 acres.

4. So far as the configuration of the country admits the blocks shall front the river or road by which means of access are provided, and shall be approximately in the shape of parallelograms, of which the frontage shall not be more than half the depth.

5. The Company may, for fifty years after the surrender, claim in any township or district within the Fertile Belt, in which land is set out for settlement, grants of land not exceeding one twentieth part of the land so set out. The blocks so granted to be determined by lot, and the Company to pay a rateable share of the survey expenses, not exceeding 8 cents Canadian an acre. The Company may defer the exercise of this right of claiming the proportion of each township for not more than ten years after it is set out; but their claim must be limited to an allotment from the lands remaining unsold at the time they declare their intention to make it.

6. For the purpose of the last Article, the Fertile Belt is to be bounded as follows:—On the south by the United States boundary; on the west by the Rocky Mountains; on the north by the northern branch of the Saskatchewan; on the east by Lake Winnipeg, the Lake of the Woods, and the waters connecting them.

7. If any township shall be formed abutting on the north bank of the northern branch of the Saskatchewan River, the Company may take their one-twentieth of any such township, which for the purpose of this article shall not extend more than five miles inland from the river, giving to the Canadian Dominion an equal quantity of the portion of lands coming to them of townships established on the southern bank.

8. In laying out any public roads, canals, &c., through any block of land reserved to the Company, the Canadian Government may take, without compensation, such land as is necessary for the purpose, not exceeding one twenty-fifth of the total acreage of the block; but if the Canadian Government require any land which is actually under cultivation, or which has been built upon, or which is necessary for giving the Company's servants access to any river or lake, or as a frontage to any river or lake, they shall pay to the Company the fair value of the same, and shall make compensation for any injury done to the Company or their servants.

9. It is understood that the whole of the land to be appropriated within the meaning of the last preceding clause shall be appropriated for public purposes.

10. All titles to land up to the eighth day of March, one thousand eight hundred and sixty-nine, conferred by the Company are to be confirmed.

11. The Company is to be at liberty to carry on its trade without hindrance in its corporate capacity, and no exceptional tax is to be placed on the Company's land, trade or servants, nor any import duties on goods introduced by them previous to the surrender.

12. Canada is to take over the materials of the electric telegraph at cost price—such price including transport, but not including interest for money, and subject to a deduction for ascertained deterioration.

13. The Company's claim to land under agreements of Messrs. Vankoughnet and Hopkins to be withdrawn.

14. Any claims of Indians to compensation for lands required for purposes of settlement shall be disposed of by the Canadian Government in communication with the Imperial Government; and the Company shall be relieved of all responsibility in respect of them.

15. The Governor in Council is authorized and empowered to arrange any details that may be necessary to carry out the above terms and conditions.

And the Right Honourable Earl Granville, one of Her Majesty's principal Secretaries of State, is to give the necessary directions herein accordingly.

SCHEDULES.

SCHEDULE (A).

ADDRESS to HER MAJESTY the QUEEN from the Senate and House of Commons of the Dominion of Canada.

To the Queen's Most Excellent Majesty.

Most Gracious Sovereign,

We, your Majesty's most dutiful and loyal subjects, the Senate and Commons of the Dominion of Canada in Parliament assembled, humbly approach your Majesty for the purpose of representing:—

That it would promote the prosperity of the Canadian people, and conduce to the advantage of the whole Empire, if the Dominion of Canada, constituted under the provisions of the British North America Act, 1867, were extended westward to the shores of the Pacific Ocean.

That the colonization of the fertile lands of the Saskatchewan, the Assiniboine, and the Red River districts; the development of the mineral wealth which abounds in the region of the Northwest; and the extension of commercial intercourse through the British possessions in America from the Atlantic to the Pacific, are alike dependent on the establishment of a stable government for the maintenance of law and order in the North-Western Territories.

That the welfare of a sparse and widely scattered population of British subjects of European origin, already inhabiting these remote and unorganized territories, would be materially enhanced by the formation therein of political institutions bearing analogy, as far as circumstances will admit, to those which exist in the several Provinces of this Dominion.

That the 146th section of the British North America Act, 1867, provides for the admission of Rupert's Land and the North-Western Territory, or either of them, into union with Canada, upon the terms and conditions to be expressed in addresses from the Houses of Parliament of this Dominion to your Majesty, and which shall be approved of by your Majesty in Council.

That we do therefore most humbly pray that your Majesty will be graciously pleased, by and with the advice of your Most Honourable Privy Council, to unite Rupert's Land and the North-Western Territory with this Dominion, and to grant to the Parliament of Canada authority to legislate for their future welfare and good Government; and we most humbly beg to express to your Majesty that we are willing to assume the duties and obligations of government and legislation as regards these territories.

That in the event of your Majesty's Government agreeing to transfer to Canada the jurisdiction and control over the said region, the Government and Parliament of Canada will

be ready to provide that the legal rights of any corporation, company or individual within the same shall be respected, and placed under the protection of Courts of competent jurisdiction.

And furthermore that, upon the transference of the territories in question to the Canadian Government, the claims of the Indian tribes to compensation for lands required for purposes of settlement will be considered and settled in conformity with the equitable principles which have uniformly governed the British Crown in its dealings with the aborigines.

All which we humbly pray your Majesty to take into your Majesty's Most gracious and favourable consideration.

The Senate, Tuesday, December 17th, 1867.

(Signed), JOSEPH CAUCHON, Speaker.

House of Commons, Monday, December 16th, 1867.

(Signed), JAMES COCKBURN, Speaker.

SCHEDULE (B).

1. *Resolutions.*

May 28th, 1869.

Resolved,—That the Senate and Commons of the Dominion of Canada during the first session of the first Parliament of Canada, adopted an Address to Her Majesty, praying that Her Majesty would be graciously pleased, by and with the advice of Her Most Honourable Privy Council, under the provisions of 146th section of The British North America Act, 1867; and on the terms specified in the Address, to unite Rupert's Land and the North-west Territory with this Dominion, and to grant to the Parliament of Canada authority to legislate for their future welfare and good government, and assuring Her Majesty of the willingness of the Parliament of Canada to assume the duties and obligations of government and legislation as regard those territories.

Resolved,—That the Joint Address of the Senate and Commons of Canada was duly laid at the foot of the throne, and that Her Majesty, by despatch from the Right Honourable the Secretary of State for the Colonies, to the Governor General of Canada, under date of the 23rd of April, 1868, signified Her willingness to comply with the prayer of the said Address; but She was advised that the requisite powers of government and legislation could not, consistently with the existing charter of the Hudson's Bay Company, be transferred to Canada without an Act of Parliament, which Act was subsequently passed by the Imperial Parliament, and received Her Majesty's Assent on the 31st July, 1868.

Resolved,—That by despatch dated 8th August, 1868, from the Honourable Secretary of State for the Colonies, the Governor General was informed, that in pursuance of the powers con-

ferred by the Act for the surrender of the Hudson Bay Territories to Her Majesty, he proposed to enter into negotiations with the Company as to the terms of such surrender, whereupon, under authority of an order of the Governor-General in Council of the 1st October, 1868, the Honourable Sir George Et. Cartier, Baronet, and the Honourable William MacDougall, C.B., were appointed a Delegation to England, to arrange the terms for the acquisition by Canada of Rupert's Land, and by another Order in Council of the same date, were authorized to arrange for the admission of the North-west Territory into union with Canada, either with or without Rupert's Land, as it might be found practicable and expedient.

Resolved,—That the Delegates proceeded on their mission to England and entered into negotiations with his Grace the Duke of Buckingham and Chandos, the Secretary of State for the Colonies, and afterwards with the Right Honourable Earl Granville, his successor in office, for the acquisition by Canada of the territorial and other rights claimed by the Hudson's Bay Company in Rupert's Land, and in any other part of British North America, not comprised in Rupert's Land, Canada, or British Columbia. That terms of agreement were conditionally assented to by the Delegates on behalf of the Dominion, and on their return to Canada were submitted with a Report dated 8th May, 1869, which was approved by His Excellency the Governor in Council, on the 14th day of the same month.

Resolved,—That the Senate will be prepared to concur in accepting the transfer of the territorial and other rights of the Hudson's Bay Company in Rupert's Land, and in any other part of British North America, not comprised in Rupert's Land, Canada or British Columbia, on the terms conditionally agreed to on behalf of the Government of Canada, by the Hon. Sir George Et. Cartier, Baronet, and the Hon. William MacDougall, C.B., and on behalf of the Hudson's Bay Company, by Sir Stafford H. Northcote, Governor of that Company, and approved by His Excellency in Council as aforesaid, which terms are set forth in a letter from Sir Frederic Rogers, Under-Secretary of State for the Colonies, of the 9th March, 1869, communicated to the Delegates by Direction of Earl Granville, and in two subsequent Memorandums dated respectively 22nd and 29th March, 1869, containing a modification of such terms, and are in the words and figures following:—

“Terms, as stated in the Letter from Sir Frederic Rogers, of March, 1869.

“1. The Hudson's Bay Company to surrender to Her Majesty all the rights of Government, property, etc., in Rupert's Land which are specified in 31 & 32 Vict., cap. 105, sec. 4; and also all similar rights in any other part of British North America, not comprised in Rupert's Land, Canada or British Columbia.

“2. Canada is to pay to the Company 300,000*l.*, when Rupert's Land is transferred to the Dominion of Canada.

"3. The Company may, within twelve months of the surrender, select a block of land adjoining each of its stations, within the limits specified in Article 1.

"4. The size of the blocks not to exceed acres in the Red River Territory, and the aggregate extent of the blocks is not to exceed 50,000 acres.

"5. So far as the configuration of the country admits, the blocks are to be in the shape of parallelograms, of which the length is not more than double the breadth.

"6. The Hudson's Bay Company may, for fifty years after the surrender, claim in any township or district within the Fertile Belt in which land is set out for settlement, select grants of land, not exceeding one-twentieth of the land so set out. The blocks so granted to be determined by lot, and the Hudson's Bay Company to pay a rateable share of the survey expenses, not exceeding an acre.

"7. For the purpose of the present agreement, the Fertile Belt is to be bounded as follows:—On the south by the United States' boundary; on the west by the Rocky Mountains; on the north by the northern branch of the Saskatchewan; on the east by Lake Winnipeg, the Lake of the Woods, and the waters connecting them.

"8. All titles to land up to the 8th March, 1869, conferred by the Company, are to be confirmed.

"9. The Company is to be at liberty to carry on its trade without hindrance, in its corporate capacity and no exceptional tax is to be placed on the Company's land, trade or servants, nor any import duty on goods introduced by them previous to the surrender.

"10. Canada is to take over the materials of the electric telegraph at cost price, such price including transport but not including interest for money, and subject to a deduction for ascertained deteriorations.

"11. The Company's claim to land under agreement of Messrs. Vankoughnet and Hopkins to be withdrawn.

"12. The details of this arrangement, including the filling up the blanks in Articles 4 and 6, to be settled at once by mutual agreement."

"MEMORANDUM

"Details of Agreement between the Delegates of the Government of the Dominion, and the Directors of the Hudson's Bay Company.

"1. It is understood that, in surrendering to Her Majesty, all the rights, etc., of the Company in any part of British North America not comprised in Rupert's Land, Canada or British Columbia, the Company are to retain the posts they actually occupy in the North West Territory.

"2. It is understood that it will be a sufficient act of selection under Article III, that the Company should, within twelve months, name the number of acres which they will require

adjoining each post. The actual survey to be proceeded with, with all convenient speed.

"3. It is understood that in the Red River Settlement, the size of the blocks to be retained round Upper Fort Garry shall not exceed (10) acres; and that round Lower Fort Garry shall not exceed (300) acres.

"4. It is understood that a list of the stations round which the Company will require blocks of land, with the size of the blocks they will require, shall be made out forthwith, and communicated to the Canadian Ministers.

"5. It is understood that Article V, shall be construed to mean that the blocks shall front the river or road, by which means of access are provided, and shall be approximately in the form of parallelograms, of which the frontage shall not be more than half the depth.

"6. It is understood that the Company may defer the exercise of their right of claiming their proportion of each township for not more than ten years after it is set out; but their claim must be limited to an allotment from the lands remaining unsold at the time they declare their intention to make it.

"7. It is understood that the Blank in Article 6 shall be filled up with 8 cents (Canadian).

"8. It is understood that any claims of Indians to compensation for lands required for purposes of settlement shall be disposed of by the Canadian Government, in communication with the Imperial Government, and that the Company shall be relieved of all responsibility in respect of them.

(Signed.) "STAFFORD H. NORTHCOTE.

"G. E. CARTIER.

"W. MACDOUGALL.

"March 22, 1869.

"Memorandum of a further Agreement between Sir Geo. Et. Cartier and Sir Stafford Northcote.

"Inasmuch as the northern branch of the Saskatchewan River is the northern boundary of the Fertile Belt, and therefore any land on the northern bank is not within the territory of which the Company are to have one-twentieth part, it is understood that, in forming the townships abutting on the northern bank, the Company shall be at liberty to take their one-twentieth of any such townships, giving up to the Canadian Dominion an equal quantity of the portion of lands coming to them of townships established on the southern bank.

"It is understood that the townships on the northern bank shall not for the above purpose extend more than five miles inland from the river.

"It is understood that, in laying out any public roads, canals, &c., through any block of land reserved to the Company, the Canadian Government may take, without compensation, such land as is necessary for the purpose, not exceeding one-

twentyfifth of the total acreage of the block; but if the Canadian Government require any land which is actually under cultivation, or which has been built upon, or which is necessary for giving the Company's servants access to any river or lake, or as a frontage to any river or lake, they shall pay the Company the fair value of the same, and shall make compensation for any injury done to the Company or their servants.

"It is understood that the whole of the land to be appropriated within the meaning of the last preceding clause shall be appropriated for public purposes.

(Signed.) "GEO. ET. CARTIER.

"STAFFORD NORTHCOTE.

"London, March 29, 1869."

Resolved,—That this House learns with satisfaction, by letter from the Under-Secretary of State for the Colonies, of 9th March last, that, in fulfilment of the expectations held out in Mr. Cardwell's despatch of 17th June, 1865, Her Majesty's Government will be prepared to propose to Parliament that the Imperial guarantee be given to a loan of 300,000*l.*, the amount which is proposed to be paid over by Canada on the transfer of the Company's rights.

Resolved,—That the Senate will be ready to concur with the House of Commons in an Address to Her Majesty, that she will be graciously pleased, by and with the advice of Her Most Honourable Privy Council, under the 146th clause of The British North America Act, 1867, and the provisions of the Imperial Act, 31 & 32 Vict., cap. 105, to unite Rupert's Land on the terms and conditions expressed in the foregoing Resolutions, and also to unite the North-Western Territory with the Dominion of Canada, as prayed for by, and on the terms and conditions contained in the joint Address of the Senate and the House of Commons of Canada, adopted during the first session of the first Parliament of Canada, and hereinbefore referred to.

Resolved,—That upon the transference of the territories in question to the Canadian Government, it will be the duty of the Government to make adequate provision for the protection of the Indian tribes whose interests and well-being are involved in the transfer.

Resolved,—That the Governor in Council be authorized and empowered to arrange any details, that may be necessary to carry out the terms and conditions of the above agreement.

2. Address.

To the Queen's Most Excellent Majesty.

Most Gracious Sovereign,

WE, your Majesty's most dutiful and loyal subjects, the Senate and Commons of the Dominion of Canada in Parliament assembled, humbly approach your Majesty for the purpose of representing:—

That, during the first session of the first Parliament of this Dominion, we adopted an Address to your Majesty, praying that your Majesty would be graciously pleased, by and with the advice of your Majesty's Most Honourable Privy Council under the provisions of the 146th Section of the British North America Act, 1867, and on the terms specified in that Address, to unite Rupert's Land and the North-West Territory with this Dominion, and to grant to the Parliament of Canada authority to legislate for their future welfare and good government, and assuring your Majesty of the willingness of the Parliament of Canada to assume the duties and obligations of Government and legislation as regards those territories.

That our joint Address was duly laid at the foot of the Throne, and that your Majesty, by despatch from the Right Honourable the Secretary of State for the Colonies to the Governor General of Canada, under date of the 23rd April, 1868, signified your Majesty's willingness to comply with the prayer of the said Address, but that your Majesty was advised that the requisite powers of government and legislation could not, consistently with the existing charter of the Hudson's Bay Company, be transferred to Canada without an Act of Parliament, which Act was subsequently passed by the Imperial Parliament, and received your Majesty's assent on the 31st July, 1868.

That by a despatch dated 8th August, 1868, from the Honourable the Secretary of State for the Colonies, the Governor General was informed that in pursuance of the powers conferred by the Act for the surrender of the Hudson's Bay territories to your Majesty he proposed to enter into negotiations with the company as to the terms of such surrender, whereupon, under authority of an Order of the Governor-General in Council, of the 1st October, 1868, the Honourable Sir George Et. Cartier, Baronet, and the Honourable William MacDougall, C.B., were appointed a delegation to England to arrange the terms for the acquisition by Canada of Rupert's Land, and by another Order in Council of the same date, were authorized to arrange for the admission of the North West Territory into union with Canada either with or without Rupert's Land, as might be found practicable and expedient.

That the delegates proceeded on their mission to England, and entered into negotiations with his Grace the Duke of Buckingham and Chandos, then Secretary of State for the Colonies, and afterwards with the Right Honourable Earl Granville, his successor in office for the acquisition by Canada of the territorial and other rights claimed by the Hudson's Bay Company in Rupert's Land, and in any other part of British North America not comprised in Rupert's Land, Canada or British Columbia, on the terms conditionally agreed to on behalf of the Government of Canada by the Honourable Sir George Et. Cartier, Baronet, and the Honourable William MacDougall, C.B., and on behalf of the Hudson's Bay Company by Sir Stafford H. Northcote, Governor of that Company, and approved by His Excellency in Council as aforesaid, which terms are set forth in a letter from Sir Frederic Rogers, Under-Secretary of State for the Colonies, of the 9th March, 1869, communicated to the delegates by direction of Earl Granville,

and in two subsequent Memorandums dated respectively 22nd and 29th March, 1869, containing a modification of such terms, and are in the words and figures following:

“Terms, as stated in the Letter from Sir Frederic Rogers of 9th March, 1869.

(These terms as set forth on pages 146, 147 supra are here recited at length.)

“MEMORANDUM.

“Details of Agreement between the Delegates of the Government of the Dominion and the Directors of the Hudson's Bay Company.

(This memorandum as set forth on pages 147, 148 supra is here recited at length.)

“Memorandum of a further Agreement between Sir Geo. Et. Cartier and Sir Stafford Northcote.

(This memorandum, also above set forth, is here recited at length.)

That we learn with satisfaction by letter from the Under-Secretary of State for the Colonies, of the 9th March last, that, in fulfilment of the expectations held out in Mr. Cardwell's despatch of the 17th of June, 1865, your Majesty's Government will be prepared by propose to Parliament that the Imperial guarantee be given to a loan of 300,000*l.* the amount which is proposed to be paid over by Canada on the transfer of the Company's rights.

That upon the transference of the territories in question to the Canadian Government it will be our duty to make adequate provision for the protection of the Indian tribes whose interests and well-being are involved in the transfer, and we authorize and empower the Governor in Council to arrange any details that may be necessary to carry out the terms and conditions of the above agreement.

We therefore most humbly pray that your Majesty will be graciously pleased, by and with the advice of your Most Honourable Privy Council, under the 146th clause of the British North America Act, 1867, and the provisions of the Imperial Act 31 and 32 Vict. cap. 105, to unite Rupert's Land on the terms and conditions expressed in the foregoing resolutions and also to unite the North-Western Territory with the Dominion of Canada as prayed for by and on the terms and conditions contained in our joint Address adopted during the first session of the first Parliament of this Dominion, and hereinbefore referred to.

The Senate, Monday, May 31, 1869.

(Signed,) JOSEPH CAUCHON, *Speaker.*

House of Commons, Ottawa, May 29, 1869.

(Signed,) JAMES COCKBURN, *Speaker*

SCHEDULE (C).

The Governor and Company of Adventurers of England trading into Hudson's Bay to HER MAJESTY QUEEN VICTORIA.

DEED OF SURRENDER.

To all whom these presents shall come unto, or concern, the Governor and Company of Adventurers of England, trading into Hudson's Bay, send greeting.

WHEREAS the said Governor and Company were established and incorporated by their said name of "The Governor and Company of Adventurers of England, trading into Hudson's Bay," by Letters Patent granted by His late Majesty King Charles the Second in the twenty-second year of his reign, whereby His said Majesty granted unto the said company and their successors the sole trade and commerce of all those seas, straits, bays, rivers, lakes, creeks and sounds in whatsoever latitude they should be, that lay within the entrance of the straits commonly called Hudson's Straits together with all the lands and territories upon the countries, coasts, and confines of the seas, bays, lakes, rivers, creeks, and sounds aforesaid that were not already actually possessed by, or granted to, any of His Majesty's subjects, or possessed by the subjects of any other Christian Prince or State, and that the said land should be from thenceforth reckoned and reputed as one of His Majesty's Plantations or Colonies in America, called Rupert's Land; and whereby His said Majesty made and constituted the said Governor and Company and their successors the absolute lords and proprietors of the same territory, limits and places aforesaid, and of all other the premises saving the faith, allegiance and sovereign dominion due to His said Majesty, his heirs and successors for the same; and granted to the said Governor and Company and their successors, such rights of Government and other rights, privileges and liberties, franchises, powers and authorities in Rupert's Land as therein expressed. And whereas ever since the date of the said Letters Patent, the said Governor and Company have exercised and enjoyed the sole right thereby granted of such trade and commerce as therein mentioned, and have exercised and enjoyed other rights, privileges, liberties, franchises, powers, and authorities thereby granted; and the said Governor and Company may have exercised or assumed rights of Government in other parts of British North America not forming part of Rupert's Land, or of Canada, or of British Columbia. And whereas by the British North America Act, 1867, it is (amongst other things) enacted that it shall be lawful for Her present Majesty Queen Victoria, by and with the advice and consent of Her Majesty's most Honourable Privy Council, on address from the Houses of Parliament of Canada, to admit Rupert's Land and the North Western Territory or either of them into the Union of the Dominion of Canada on such terms and conditions as are in the Address expressed, and as Her Majesty thinks fit to approve, subject to the provisions of the said Act. And whereas, by the Rupert's Land Act, 1868, it is enacted (amongst other things) that for the purposes of that Act the term "Rupert's

Land" shall include the whole of the lands and territories held or claimed to be held by the said Governor and Company, and that it shall be competent for the said Governor and Company to surrender to Her Majesty, and for Her Majesty, by any instrument under Her Sign Manual and Signet to accept a surrender of all or any of the lands, territories, rights, privileges, liberties, franchises, powers and authorities whatsoever, granted or purported to be granted by the said Letters Patent to the said Governor and Company within Rupert's Land, upon such terms and conditions as shall be agreed upon by and between Her Majesty and the said Governor and Company; provided, however, that such surrender shall not be accepted by Her Majesty until the terms and conditions upon which Rupert's Land shall be admitted into the said Dominion of Canada shall have been approved of by Her Majesty, and embodied in an Address to Her Majesty from the Houses of the Parliament of Canada, in pursuance of the 146th Section of the British North America Act, 1867, and that upon the acceptance by Her Majesty of such surrender, all rights of Government and proprietary rights, and all other privileges, liberties, franchises, powers and authorities whatsoever, granted or purported to be granted by the said Letters Patent to the said Governor and Company within Rupert's Land, and which shall have been so surrendered; shall be absolutely extinguished, provided that nothing in the said Act contained shall prevent the said Governor and Company from continuing to carry on in Rupert's Land or elsewhere trade and commerce. And whereas Her said Majesty Queen Victoria and the said Governor and Company have agreed to terms and conditions upon which the said Governor and Company shall surrender to Her said Majesty, pursuant to the provisions in that behalf in the Rupert's Land Act, 1868, contained, all the rights of Government and other rights, privileges, liberties, franchises, powers and authorities, and all the lands and territories (except and subject as in the said terms and conditions expressed or mentioned) granted or purported to be granted by the said Letters Patent, and also all similar rights which have been exercised or assumed by the said Governor and Company in any parts of British North America not forming part of Rupert's Land, or of Canada, or of British Columbia, in order and to the intent that, after such surrender has been effected and accepted under the provisions of the last-mentioned Act, the said Rupert's Land may be admitted into the Union of the Dominion of Canada, pursuant to the hereinbefore mentioned Acts or one of them. And whereas the said terms and conditions on which it has been agreed that the said surrender is to be made by the said Governor and Company (who are in the following articles designated as the Company) to Her said Majesty are as follows (that is to say):—

1. The Canadian Government shall pay to the Company the sum of 300,000*l.* sterling when Rupert's Land is transferred to the Dominion of Canada.

2. The Company to retain all the posts or stations now actually possessed and occupied by them or their officers or agents whether in Rupert's Land or any other part of British North America, and may within twelve months after the acceptance of the said surrender select a block of land adjoining

each of their posts or stations, within any part of British North America, not comprised in Canada and British Columbia in conformity, except as regards the Red River Territory, with a list made out by the Company and communicated to the Canadian Ministers, being the list in the annexed schedule. The actual survey is to be proceeded with, with all convenient speed.

3. The size of each block is not to exceed in the Red River Territory an amount to be agreed upon between the Company and the Governor of Canada in Council.

4. So far as the configuration of the country admits, the blocks shall front the river or road by which means of access are provided, and shall be approximately in the shape of parallelograms, and of which the frontage shall not be more than half the depth.

5. The Company may, at any time within fifty years after such acceptance of the said surrender, claim in any township or district within the fertile belt in which land is set out for settlements, grants of land not exceeding one-twentieth part of the land so set out; the blocks so granted to be determined by lot, and the Company to pay a rateable share of the survey expenses, not exceeding 8 cents Canadian an acre. The Company may defer the exercise of their right of claiming their proportion of each township or district for not more than ten years after it is set out, but their claim must be limited to an allotment from the lands remaining unsold at the time they declare their intention to make it.

6. For the purpose of the last article the fertile belt is to be bounded as follows:—On the south by the United States' boundary; on the west by the Rocky Mountains; on the north by the Northern Branch of the Saskatchewan River; on the east by Lake Winnipeg, the Lake of the Woods and the waters connecting them.

7. If any township shall be formed abutting on the north bank of the northern branch of the Saskatchewan River, the Company may take their one-twentieth of any such township, which, for the purpose of this article, shall not extend more than five miles inland from the river, giving to the Canadian Dominion an equal quantity of the portion of land coming to them of townships established on the southern bank of the said river.

8. In laying out any public roads, canals or other public works, through any block of land reserved to the Company, the Canadian Government may take without compensation such land as is necessary for the purpose, not exceeding one-twenty-fifth of the total acreage of the block; but if the Canadian Government require any land which is actually under cultivation, which has been built upon, or which is necessary for giving the Company's servants access to any river or lake, or as a frontage to any river or lake, the said Government shall pay to the Company the fair value of the same, and shall make compensation for any injury done to the Company or their servants.

9. It is understood that the whole of the land to be appropriated within the meaning of the last preceding clause, shall be appropriated for public purposes.

10. All titles to land up to the eighth day of March, one thousand eight hundred and sixty-nine, conferred by the Company, are to be confirmed.

11. The Company is to be at liberty to carry on its trade without hindrance in its corporate capacity; and no exceptional tax is to be placed on the Company's land, trade or servants, nor any import duty on goods introduced by the said Company previously to such acceptance of the said surrender.

12. Canada is to take over the materials of the electric telegraph at cost price; such price including transport, but not including interest for money, and subject to a deduction for ascertained deterioration.

13. The Company's claim to land under an agreement of Messrs. Vankoughnet and Hopkins is to be withdrawn.

14. Any claims of Indians to compensation for lands required for purposes of settlement shall be disposed of by the Canadian Government in communication with the Imperial Government; and the Company shall be relieved of all responsibility in respect of them.

And whereas the surrender hereinafter contained is intended to be made in pursuance of the agreement, and upon the terms and conditions hereinbefore stated.

Now know ye, and these presents witness, that, in pursuance of the powers and provisions of the Rupert's Land Act, 1868, and on the terms and conditions aforesaid, and also on condition of this surrender being accepted pursuant to the provisions of that Act, the said Governor and Company do hereby surrender to the Queen's Most Gracious Majesty, all the rights of Government, and other rights, privileges, liberties, franchises, powers and authorities, granted or purported to be granted to the said Governor and Company by the said recited Letters Patent of His late Majesty King Charles the Second; and also all similar rights which may have been exercised or assumed by the said Governor and Company in any parts of British North America, not forming part of Rupert's Land or of Canada, or of British Columbia, and all the lands and territories within Rupert's Land (except and subject as in the said terms and conditions mentioned) granted or purported to be granted to the said Governor and Company by the said Letters Patent. In witness whereof, the Governor and Company of Adventurers of England trading into Hudson's Bay, have hereunto caused their Common Seal to be affixed, the nineteenth day of November, One thousand eight hundred and sixty-nine.

THE SCHEDULE ABOVE REFERRED TO

Northern Department, RUPERT'S LAND

District	Post	Acres of Land
English River.....	Isle à la Crosse.....	50
	Rapid River.....	5
	Portage La Loche.....	20
	Green Lake.....	100
	Cold Lake.....	10
	Deer's Lake.....	5
		190 acres in English River District.

Northern Department, RUPERT'S LAND—Continued

District	Post	Acres of Land
Saskatchewan.....	Edmonton House.....	3,000
	Rocky Mountain House.....	500
	Fort Victoria.....	3,000
	St. Paul.....	3,000
	Fort Pitt.....	3,000
	Battle River.....	3,000
	Carlton House.....	3,000
	Fort Albert.....	3,000
	Whitefish Lake.....	500
	Lac La Biche.....	1,000
	Fort Assiniboine.....	50
	Lesser Slave Lake.....	500
	Lac St. Anne.....	500
	Lac La Nun.....	500
	St. Albert.....	1,000
	Pigeon Lake.....	100
	Old White Mud Fort...	50
	25,700 acres in Saskatchewan District.	
Cumberland.....	Cumberland House.....	100
	Fort La Cocue.....	3,000
	Pelican Lake.....	50
	Moose Woods.....	1,000
	The Pas.....	25
	Moose Lake.....	50
	Grande Rapid Portage..	100 50 acres at each end of portage.
4,325 acres in Cumberland District.		
Swan River.....	Fort Pelly.....	3,000
	Fort Ellice.....	3,000
	Qu'Appelle Lakes.....	2,500
	Touchwood Hills.....	500
	Shoal River.....	50
	Manitobah.....	50
	Fairford.....	100
9,200 acres in Swan River District.		
Red River.....	Upper Fort Garry and Town of Winnipeg....	{ Such number of acres as may be agreed upon between the Company and the Governor of Canada in Council.
	Lower Fort Gary (including the farm the Company now have under cultivation).....	
	White Horse Plain.....	
Manitobah Lake.....	Oak Point.....	50
Portage La Prairie...		1,000
1,050		
Lake La Pluie.....	Fort Alexander.....	500
	Fort Frances.....	500
	Eagle's Nest.....	20
	Big Island.....	20
	Lac du Bonnet.....	20
	Rat Portage.....	50
	Shoal Lake.....	20
	Lake of the Woods.....	50
	Whitefish Lake.....	20
	English River.....	20
	Hungry Hall.....	20
	Trout Lake.....	20
	Clear Water Lake.....	20
	Sandy Point.....	20
1,300 acres in Lac La Pluie District		
York.....	York Factory.....	100
	Churchill.....	10
	Severn.....	10
	Trout Lake.....	10
	Oxford.....	100
	Jackson's Bay.....	10
	God's Lake.....	10
	Island Lake.....	10
260		

Northern Department, RUPERT'S LAND—Concluded

District	Post	Acres of Land
Norway House.....	Norway House.....	100
	Berens' River.....	25
	Grand Rapid.....	10
	Nelson's River.....	10
		145
Total in Northern Department.....		42,170 acres.

Southern Department, RUPERT'S LAND

Albany.....	Albany Factory.....	100	
	Martin's Falls.....	10	
	Osnaburg.....	25	
	Lac Seul.....	500	
			635
East Main.....	Little Whale River....	50	
	Great Whale River....	50	
	Fort George.....	25	
			125
Moose.....	Moose Factory.....	100	
	Hannah Bay.....	10	
	Abitibi.....	10	
	New Brunswick.....	25	
			145
Rupert's House.....	Rupert's House.....	50	
	Mistassing.....	10	
	Temiskamay.....	10	
	Woswonaby.....	10	
	Meekiskun.....	10	
	Pike Lake.....	10	
	Nitchequou.....	10	
	Kamapiscan.....	10	
			120
Kinogumissee.....	Matawagamique.....	50	
	Kuckatoosh.....	10	
			60
Total in Southern Department.....			1,085 acres.

Montreal Department, RUPERT'S LAND

Superior.....	Long Lake.....	10	
Temiscaminque.....	Kakababeagino.....	10	
			20
Labrador.....	Fort Nascopie.....	75	
	Outposts, ditto.....	25	
	Fort Chimo (Ungava)..	100	
	South River, outposts..	30	
	George's River.....	50	
	Whale River.....	50	
	North's River.....	25	
	False River.....	25	
			380
Total in Montreal Department.....			400 acres.

Northern Department, NORTH WEST TERRITORY

Athabasca.....	Fort Chippewyan.....	10
	Fort Vermilion.....	500
	Fort Dunvegan.....	50

Northern Department, NORTH WEST TERRITORY—Concluded

District	Post	Acres of Land	
Athabasca.....	Fort St. John's.....	20	
	Forks of Athabasca River.....	10	
	Battle River.....	5	
	Fond du Lac.....	5	
	Salt River.....	5	
			605 acres in Athabasca District.
McKenzie's River...	Fort Simpson.....	100	
	Fort Liard.....	300	
	Fort Nelson.....	200	
	The Rapids.....	100	
	Hay River.....	20	
	Fort Resolution.....	20	
	Fort Rae.....	10	
	Fond du Lac.....	10	
	Fort Norman.....	10	
	Fort Good Hope.....	10	
	Peel's River.....	10	
	Lapierre's House.....	16	
	Fort Halkett.....	100	
			900 acres in McKenzie's R. District.
Total in North West Territory.....		1,505 acres.	

RECAPITULATION

	Acres
Northern Department, Rupert's Land.....	42,170
Southern " ".....	1,085
Montreal " ".....	400
Northern Department, North West Territory.....	1,505
	45,160

ORDER OF HER MAJESTY IN COUNCIL
ADMITTING BRITISH COLUMBIA
INTO THE UNION ⁽¹¹³⁾

At the Court at Windsor, the 16th day of May, 1871.

PRESENT.

The QUEEN'S Most Excellent Majesty.
His Royal Highness Prince ARTHUR.

Lord Privy Seal.

Lord Chamberlain.

Earl Cowper.

Mr. Secretary Cardwell.

Earl of Kimberley.

Mr. Ayrton.

WHEREAS by the British North America Act, 1867," provision was made for the Union of the Provinces of Canada, Nova Scotia and New Brunswick into the Dominion of Canada, and it was (amongst other things) enacted that it should be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of Canada, and of the Legislature of the Colony of British Columbia, to admit that Colony into the said Union, on such terms and conditions as should be in the Addresses expressed, and as the Queen should think fit to approve, subject to the provisions of the said Act; And it was further enacted that the provisions of any Order in Council in that behalf should have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

And whereas by Addresses from the Houses of the Parliament of Canada and from the Legislative Council of British Columbia respectively, of which Addresses copies are contained in the Schedule to this Order annexed, Her Majesty was prayed, by and with the advice of Her Most Honourable Privy Council, under the one hundred and forty-sixth section of the hereinbefore recited Act, to admit British Columbia into the Dominion of Canada on the terms and conditions set forth in the said Addresses.

⁽¹¹³⁾ British Columbia followed Manitoba into the Dominion under Imperial Order in Council of May 16th, 1871. As required by section 146 of the British North America Act, 1867, the admission of the province was based upon, and the Order in Council (which has, under the Act, the force of an Imperial statute) proceeded upon, addresses of the Parliament of Canada and the Legislature of the Province. At the time when the Dominion Parliament adopted the necessary address British Columbia had not a House of Assembly nor did it enjoy responsible government. The colony had been under a Governor and Legislative Council since 1858. These conditions had been changed, however, by the time of actual entry of the colony into the Dominion. (See B.C. Statute No. 147 of 1871 and its recitals.) British Columbia being a settled colony it traced its constitution back to the Crown. Thus unlike the conquered provinces of Quebec and Ontario, it required no statutory provisions as to its constitution upon entry into the Dominion. W. F. O'Connor.—*Report to the Speaker of the Senate* (1939). Annex I, page 9.

And whereas Her Majesty has thought fit to approve of the said terms and conditions, it is hereby ordered and declared by Her Majesty, by and with the advice of Her Privy Council, in pursuance and exercise of the powers vested in Her Majesty, by the said Act of Parliament, that from and after the twentieth day of July, one thousand eight hundred and seventy-one, the said Colony of British Columbia shall be admitted into and become part of the Dominion of Canada, upon the terms and conditions set forth in the hereinbefore recited Addresses. And in accordance with the terms of the said Addresses relating to the Electoral Districts in British Columbia, for which the first election of members to serve in the House of Commons of the said Dominion shall take place, it is hereby further ordered and declared that such electoral districts shall be as follows:—

“New Westminster District” and the “Coast District,” as defined in a public notice issued from the Lands and Works Office in the said Colony, on the 15th day of December, one thousand eight hundred and sixty-nine, by the desire of the Governor and purporting to be in accordance with the provisions of the thirty-ninth clause of the “Mineral Ordinance, 1869,” shall constitute one district, to be designated “New Westminster District” and return one Member.

“Cariboo District” and “Lillooet District,” as specified in the said public notice, shall constitute one district, to be designated “Cariboo District,” and return one Member.

“Yale District” and “Kootenay District,” as specified in the said public notice, shall constitute one District, to be designated “Yale District,” and return one Member.

Those portions of Vancouver Island, known as “Victoria District,” “Esquimalt District,” and “Metchosin District,” as defined in the official maps of those districts which are in the Land Office, Victoria, and are designated respectively, “Victoria District Official Map, 1858,” “Esquimalt District Official Map 1858,” and “Metchosin District Official Map, A.D. 1858,” shall constitute one District, to be designated “Victoria District,” and return two Members.

All the remainder of Vancouver Island, and all such islands adjacent thereto as were formerly dependencies of the late Colony of Vancouver Island shall constitute one district, to be designated “Vancouver Island District,” and return one Member.

And the Right Honourable Earl of Kimberley, one of Her Majesty’s Principal Secretaries of State, is to give the necessary directions therein accordingly.

ARTHUR HELPS.

SCHEDULE.

Address of the Senate of Canada.

To the Queen's Most Excellent Majesty.

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal subjects, the Senate of Canada in Parliament assembled, humbly approach Your Majesty for the purpose of representing:—

That by a despatch from the Governor of British Columbia, dated 23rd January, 1871, with other papers laid before this House, by message from His Excellency the Governor-General, of the 27th February last, this House learns that the Legislative Council of that colony, in council assembled, adopted, in January last, an Address representing to Your Majesty that British Columbia was prepared to enter into Union with the Dominion of Canada, upon the terms and conditions mentioned in the said Address, which is as follows:—

To the Queen's Most Excellent Majesty.

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal subjects, the Members of the Legislative Council of British Columbia, in council assembled, humbly approach Your Majesty for the purpose of representing:—

That, during the last session of the late Legislative Council, the subject of the admission of the Colony of British Columbia into the Union or Dominion of Canada was taken into consideration, and a resolution on the subject was agreed to, embodying the terms upon which it was proposed that this colony should enter the Union;

That after the close of the session, Delegates were sent by the Government of this Colony to Canada to confer with the Government of the Dominion with respect to the admission of British Columbia into the Union upon the terms proposed;

That after considerable discussion by the Delegates with the Members of the Government of the Dominion of Canada, the terms and conditions hereinafter specified were adopted by a Committee of the Privy Council of Canada and were by them reported to the Governor General for his approval;

That such terms were communicated to the Government of this Colony by the Governor General of Canada, in a despatch dated July 7th, 1870, and are as follows:—

1. Canada shall be liable for the debts and liabilities of British Columbia existing at the time of the Union.

2. British Columbia not having incurred debts equal to those of the other provinces now constituting the Dominion, shall be entitled to receive, by half-yearly payments, in advance from the General Government, interest at the rate of five per

cent per annum on the difference between the actual amount of its indebtedness at the date of the Union, and the indebtedness per head of the population of Nova Scotia and New Brunswick (27.77 dollars), the population of British Columbia being taken at 60,000.

3. The following sums shall be paid by Canada to British Columbia for the support of its Government and Legislature, to wit, an annual subsidy of 35,000 dollars, and an annual grant equal to 80 cents per head of the said population of 60,000, both half-yearly in advance, such grant of 80 cents per head to be augmented in proportion to the increase of population, as may be shown by each subsequent decennial census, until the population amounts to 400,000, at which rate such grant shall thereafter remain, it being understood that the first census be taken in the year 1881.

4. The Dominion will provide an efficient mail service, fortnightly, by steam communication between Victoria and San Francisco, and twice a week between Victoria and Olympia; the vessels to be adapted for the conveyance of freight and passengers.

5. Canada will assume and defray the charges for the following services:—

- A. Salary of the Lieutenant-Governor;
- B. Salaries and allowances of the Judges of the Superior Courts and the County or District Courts;
- C. The charges in respect to the Department of Customs;
- D. The Postal and Telegraph Services;
- E. Protection and encouragement of Fisheries;
- F. Provision for the Militia;
- G. Lighthouses, Buoys and Beacons, Shipwrecked Crews, Quarantine and Marine Hospitals, including a Marine Hospital at Victoria;
- H. The Geological Survey;
- I. The Penitentiary;

And such further charges as may be incident to and connected with the services which by the British North America Act, 1867, appertain to the General Government, and as are or may be allowed to the other Provinces.

6. Suitable pensions, such as shall be approved of by Her Majesty's Government shall be provided by the Government of the Dominion for those of Her Majesty's servants in the Colony whose position and emoluments derived therefrom would be affected by political changes on the admission of British Columbia into the Dominion of Canada.

7. It is agreed that the existing Customs tariff and Excise duties shall continue in force in British Columbia until the railway from the Pacific Coast and the system of railways in Canada are connected, unless the Legislature of British Columbia should sooner decide to accept the Tariff and Excise Laws of Canada. When Customs and Excise duties are, at the time of the union of British Columbia with Canada, leviable on any

goods, wares or merchandises in British Columbia, or in the other Provinces of the Dominion, those goods, wares and merchandises may, from and after the Union, be imported into British Columbia from the Provinces now composing the Dominion, or into either of those Provinces from British Columbia, on proof of payment of the Customs or Excise duties leviable thereon in the Province of exportation, and on payment of such further amount (if any) of Customs or Excise duties as are leviable thereon in the Province of importation. This arrangement to have no force or effect after the assimilation of the Tariff and Excise duties of British Columbia with those of the Dominion.

8. British Columbia shall be entitled to be represented in the Senate by three members, and by six members in the House of Commons. The representation to be increased under the provisions of The British North America Act, 1867.

9. The influence of the Dominion Government will be used to secure the continued maintenance of the naval station at Esquimault.

10. The provisions of the British North America Act, 1867, shall (except those parts thereof which are in terms made, or by reasonable intendment may be held to be specially applicable to and only affect one and not the whole of the Provinces now comprising the Dominion, and except so far as the same may be varied by this Minute) be applicable to British Columbia in the same way and to the like extent as they apply to the other Provinces of the Dominion, and as if the Colony of British Columbia had been one of the Provinces originally united by the said Act.

11. The Government of the Dominion undertake to secure the commencement simultaneously, within two years from the date of the Union, of the construction of a railway from the Pacific towards the Rocky Mountains, and from such point as may be selected, east of the Rocky Mountains, towards the Pacific, to connect the seaboard of British Columbia with the railway system of Canada; and further, to secure the completion of such railway within ten years from the date of the Union.

And the Government of British Columbia agree to convey to the Dominion Government, in trust, to be appropriated in such manner as the Dominion Government may deem advisable in furtherance of the construction of the said railway, a similar extent of public lands along the line of railway throughout its entire length in British Columbia (not to exceed however, twenty (20) miles on each side of said line,) as may be appropriated for the same purpose by the Dominion Government from the public lands of the North-West territories and the Province of Manitoba: Provided that the quantity of land which may be held under pre-emption right or by Crown grant within the limits of the tract of land in British Columbia to be so conveyed to the Dominion Government shall be made good to the Dominion from contiguous public lands; and provided further, that until the commencement, within two years, as aforesaid, from the date of the Union, of the construction of the said railway, the Government of British

Columbia shall not sell or alienate any further portions of the public lands of British Columbia in any other way than under right of pre-emption requiring actual residence of the pre-emptor on the land claimed by him. In consideration of the land to be so conveyed in aid of the construction of the said railway, the Dominion Government agree to pay to British Columbia from the date of the Union, the sum of 100,000 dollars per annum, in half-yearly payments in advance.

12. The Dominion Government shall guarantee the interest for ten years from the date of the completion of the works, at the rate of five per centum per annum, on such sum, not exceeding £100,000 sterling, as may be required for the construction of a first class graving dock at Esquimalt.

13. The charge of the Indians, and the trusteeship and management of the lands reserved for their use and benefit, shall be assumed by the Dominion Government, and a policy as liberal as that hitherto pursued by the British Columbia Government shall be continued by the Dominion Government after the Union.

To carry out such policy, tracts of land of such extent as it has hitherto been the practice of the British Columbia Government to appropriate for that purpose, shall from time to time be conveyed by the Local Government to the Dominion Government in trust for the use and benefit of the Indians on application of the Dominion Government; and in case of disagreement between the two Governments respecting the quantity of such tracts of land, to be so granted, the matter shall be referred for the decision of the Secretary of State for the Colonies.

14. The Constitution of the Executive Authority and of the Legislature of British Columbia shall, subject to the provisions of the British North America Act, 1867, continue as existing at the time of the Union until altered under the authority of the said Act, it being at the same time understood that the Government of the Dominion will readily consent to the introduction of responsible government when desired by the inhabitants of British Columbia, and it being likewise understood that it is the intention of the Government of British Columbia, under the authority of the Secretary of State for the Colonies, to amend the existing Constitution of the Legislature by providing that a majority of its Members shall be elective.

The Union shall take effect according to the foregoing terms and conditions on such day as Her Majesty by and with the advice of Her Most Honourable Privy Council may appoint (on addresses from the Legislature of the Colony of British Columbia and of the Houses of Parliament of Canada in the terms of the 146th section of the British North America Act, 1867,) and British Columbia may in its address specify the electoral districts for which the first election of Members to serve in the House of Commons shall take place.

That terms have proved generally acceptable to the people of this Colony.

That this Council is, therefore, willing to enter into Union with the Dominion of Canada upon such terms, and humbly

submit that, under the circumstances, it is expedient that the admission of this Colony into such Union, as aforesaid, should be effected at as early a date as may be found practicable under the provisions of the 146th section of the British North America Act, 1867.

We, therefore, humbly pray that Your Majesty will be graciously pleased, by and with the advice of Your Majesty's Most Honourable Privy Council, under the provisions of the 146th section of British North America Act, 1867, to admit British Columbia into the Union or Dominion of Canada, on the basis of the terms and conditions offered to this Colony by the Government of the Dominion of Canada, hereinbefore set forth; and inasmuch as by the said terms British Columbia is empowered in its address to specify the electoral districts for which the first election of members to serve in the House of Commons shall take place, we humbly pray that such electoral districts may be declared, under the Order in Council, to be as follows:—

That "New Westminster District," and the "Coast District," as defined in a public notice issued from the Lands and Works Office on the 15th day of December, 1869, by the desire of the Governor, and purporting to be in accordance with the provisions of the 39th clause of the "Mineral Ordinance, 1869," shall constitute one district, to be designated "New Westminster District," and return one Member.

That "Cariboo District," and "Lillooet District," as specified in the said public notice, shall constitute one district, to be designated "Cariboo District," and return one Member.

That "Yale District," and "Kootenay District," as specified in the said public notice, shall constitute one district, to be designated "Yale District," and return one Member.

That those portions of Vancouver Island known as "Victoria District," "Esquimalt District," and "Metchosin District," as defined in the official maps of those districts in the Land Office, Victoria, and which maps are designated respectively, "Victoria District Official Map, 1858," "Esquimalt District Official Map, 1858," and "Metchosin District Official Map, 1858," shall constitute one district, to be designated "Victoria District," and return two Members.

And that all the remainder of Vancouver Island, and all such islands adjacent thereto as were formerly dependencies of the late colony of Vancouver Island shall constitute one district, to be designated "Vancouver Island District," and return one Member.

We further humbly represent, that the proposed terms and conditions of Union of British Columbia with Canada, as stated in the same Address, are in conformity with those preliminarily agreed upon between delegates from British Columbia and the Members of the Government of the Dominion of Canada, and embodied in a Report of a Committee of the Privy Council, approved by His Excellency the Governor General in Council, on the 1st July, 1870, which approved Report is as follows:—

Copy of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council, on the 1st of July, 1870.

The Committee of the Privy Council have had under consideration a Despatch, dated the 7th May, 1870, from the Governor of British Columbia, together with certain Resolutions submitted by the Government of that colony to the Legislative Council thereof—both hereunto annexed—on the subject of the proposed Union of British Columbia with the Dominion of Canada; and after several interviews between them and the Honourable Messrs. Trutch, Helmcken, and Carrall, the Delegates from British Columbia, and full discussion with them of the various questions connected with that important subject, the Committee now respectfully submit to Your Excellency's approval, the following terms and conditions to form the basis of a political union between British Columbia and the Dominion of Canada.

(Here are set forth at length the terms of Union as stated on pages 161, 162, 163, 164 and 165 supra, in the Address of the Legislative Council of British Columbia.)

(Certified.) WM. H. LEE,
Clerk Privy Council.

We further humbly represent that we concur in the terms and conditions of Union set forth in the said Address, and approved Report of the Committee of the Privy Council above mentioned; and most respectfully pray that your Majesty will be graciously pleased, by and with the advice of your Majesty's most Honourable Privy Council, under the 146th clause of The British North America Act, 1867, to unite British Columbia with the Dominion of Canada, on the terms and conditions above set forth.

The Senate, Wednesday, April 5th, 1871.

(Signed) JOSEPH CAUCHON, *Speaker.*

Address of the Commons. of Canada.

To the Queen's Most Excellent Majesty.

Most Gracious Sovereign,

We, Your Majesty's most dutiful and loyal subjects, the Commons of Canada in Parliament assembled, humbly approach Your Majesty for the purpose of representing:—

(The balance of the Address is identical in form with the Address of the Senate and is omitted for that reason.)

JAMES COCKBURN, *Speaker.*

House of Commons,

Saturday, 1st April, 1871.

Address of the Legislative Council of British Columbia.

To the Queen's Most Excellent Majesty.

Most Gracious Sovereign,

We, your Majesty's most dutiful and loyal subjects, the Members of the Legislative Council of British Columbia in Council assembled, humbly approach your Majesty for the purpose of representing:—

(Etc., etc., etc. The Address is set forth at length in the Address of the Senate.)

(Signed) PHILIP J. HANKIN,
 Speaker

ORDER OF HER MAJESTY IN COUNCIL
ADMITTING PRINCE EDWARD ISLAND
INTO THE UNION ⁽¹¹⁴⁾

At the Court at Windsor, the 26th day of June, 1873.

PRESENT:

The QUEEN'S Most Excellent Majesty.

Lord President.

Earl of Kimberley.

Earl Granville.

Lord Chamberlain.

Mr. Gladstone.

WHEREAS by the British North America Act, 1867, provision was made for the Union of the Provinces of Canada, Nova Scotia and New Brunswick into the Dominion of Canada, and it was (amongst other things) enacted that it should be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of Canada, and of the Legislature of the Colony of Prince Edward Island, to admit that Colony into the said Union on such terms and conditions as should be in the Addresses expressed, and as the Queen should think fit to approve, subject to the provisions of the said Act; and it was further enacted that the provisions of any Order in Council in that behalf, should have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

And whereas by Addresses from the Houses of the Parliament of Canada, and from the Legislative Council and House of Assembly of Prince Edward Island respectively, of which Addresses, copies are contained in the Schedule to this Order annexed, Her Majesty was prayed, by and with the advice of Her Most Honourable Privy Council, under the one hundred and forty-sixth section of the hereinbefore recited Act, to admit Prince Edward Island into the Dominion of Canada, on the terms and conditions set forth in the said Addresses.

⁽¹¹⁴⁾ "The third in order of entry of the new provinces into the Dominion was Prince Edward Island, which, originally constituting part of Nova Scotia, had enjoyed representative institutions since 1773. The date of the Imperial Order in Council in the case of Prince Edward Island is June 26th, 1873. It was based upon and embodied the terms of the addresses of the Parliament of the Dominion and the Legislature of the Province, which, having been a settled colony it was only necessary for the Order in Council to provide concerning its constitution that "the constitution of the Executive authority and of the Legislature of Prince Edward Island shall, subject to the provisions of the British North America Act, 1867, continue as at the time of the Union, until altered under the authority of the said Act."

The status of the province in Confederation is provided for by the Imperial Order in Council in the customary terms, as in the case of British Columbia, that the provisions of the British North America Act, 1867, shall (except &c., and except &c.) apply to the province in the same way and to the like extent as they apply to the other provinces of the Dominion, and as if Prince Edward Island had been one of the provinces originally united by the said Act." W. F. O'Connor.—*Report to the Speaker of the Senate* (1939). Annex I, page 9.

And whereas Her Majesty has thought fit to approve of the said terms and conditions, it is hereby ordered and declared by Her Majesty, by and with the advice of Her Privy Council, in pursuance and exercise of the powers vested in Her Majesty, by the said Act of Parliament, that from and after the first day of July, one thousand eight hundred and seventy-three, the said Colony of Prince Edward Island shall be admitted into and become part of the Dominion of Canada, upon the terms and conditions set forth in the hereinbefore recited Addresses.

And in accordance with the terms of the said Addresses relating to the Electoral Districts for which, the time within which, and the laws and provisions under which the first election of members to serve in the House of Commons of Canada, for such Electoral Districts shall be held, it is hereby further ordered and declared that "Prince County" shall constitute one district, to be designated "Prince County District," and return two members that "Queen's County" shall constitute one district, to be designated "Queen's County District," and return two members; that "King's County" shall constitute one district, to be designated "King's County District," and return two members; that the election of members to serve in the House of Commons of Canada, for such Electoral Districts shall be held within three calendar months from the day of the admission of the said Island into the Union or Dominion of Canada; that all laws which at the date of this Order in Council relating to the qualification of any person to be elected or sit or vote as a member of the House of Assembly of the said Island, and relating to the qualifications or disqualifications of voters, and to the oaths to be taken by voters, and to Returning Officers and Poll Clerks, and their powers and duties, and relating to Polling Divisions within the said Island, and relating to the proceedings at elections, and to the period during which such elections may be continued, and relating to the trial of controverted elections, and the proceedings incidental thereto, and relating to the vacating of seats of the members, and to the execution of new writs, in the case of any seat being vacated otherwise than by a dissolution, and to all other matters connected with or incidental to elections of members to serve in the House of Assembly of the said Island, shall apply to elections of members to serve in the House of Commons for the Electoral Districts situate in the said Island of Prince Edward.

And the Right Honourable Earl of Kimberley, one of Her Majesty's Principal Secretaries of State is to give the necessary directions herein, accordingly.

ARTHUR HELPS.

SCHEDULE.

To the Queen's Most Excellent Majesty.

Most Gracious Sovereign,

We, Your Majesty's most dutiful and loyal subjects, the Commons of the Dominion of Canada in Parliament assembled, humbly approach Your Majesty for the purpose of representing:—

That during the present Session of Parliament we have taken into consideration the subject of the admission of the Colony of Prince Edward Island into the Union or Dominion of Canada, and have resolved that it is expedient that such admission should be effected at as early a date as may be found practicable under the one hundred and forty-sixth section of the British North America Act, 1867, on the conditions hereinafter set forth, which have been agreed upon with the Delegates from the said Colony that is to say:—

That Canada shall be liable for the debts and liabilities of Prince Edward Island at the time of the Union;

That in consideration of the large expenditure authorized by the Parliament of Canada for the construction of railways and canals, and in view of the possibility of a readjustment of the financial arrangements between Canada and the several Provinces now embraced in the Dominion, as well as the isolated and exceptional condition of Prince Edward Island, that Colony shall, on entering the Union, be entitled to incur a debt equal to fifty dollars per head of its population, as shewn by the Census Returns of 1871, that is to say: four millions seven hundred and one thousand and fifty dollars;

That Prince Edward Island not having incurred debts equal to the sum mentioned in the next preceding Resolution, shall be entitled to receive, by half-yearly payments, in advance, from the General Government, interest at the rate of five per centum per annum on the difference, from time to time, between the actual amount of its indebtedness and the amount of indebtedness authorized as aforesaid, viz., four millions seven hundred and one thousand and fifty dollars;

That Prince Edward Island shall be liable to Canada for the amount (if any) by which its public debts and liabilities at the date of the Union, may exceed four millions seven hundred and one thousand and fifty dollars and shall be chargeable with interest at the rate of five per centum per annum on such excess;

That as the Government of Prince Edward Island holds no lands from the Crown, and consequently enjoys no revenue from that source for the construction and maintenance of local works, the Dominion Government shall pay by half-yearly instalments, in advance, to the Government of Prince Edward Island, forty-five thousand dollars per annum, less interest at five per centum per annum, upon any sum not exceeding eight hundred thousand dollars which the Dominion Government may advance to the Prince Edward Island Government for the purchase of lands now held by large proprietors;

That in consideration of the transfer to the Parliament of Canada of the powers of taxation, the following sums shall be paid yearly by Canada to Prince Edward Island, for the support of its Government and Legislature, that is to say, thirty thousand dollars, and an annual grant equal to eighty cents per head of its population, as shown by the Census returns of 1871, viz., 94,021, both by half-yearly payments in advance—such grant of eighty cents per head to be augmented in proportion to the increase of population of the Island as may be shown by each

subsequent decennial Census, until the population amounts to four hundred thousand, at which rate such grant shall thereafter remain, it being understood that the next Census shall be taken in the year 1881;

That the Dominion Government shall assume and defray all the charges for the following services, viz.:—

The salary of the Lieutenant-Governor;

The salaries of the Judges of the Superior Court and of the District or County Courts when established;

The charges in respect of the Department of Customs;

The Postal Department;

The protection of the Fisheries;

The provision for the Militia;

The Lighthouses, Shipwrecked Crews, Quarantine and Marine Hospitals;

The Geological Survey;

The Penitentiary;

Efficient Steam Service for the conveyance of mails and passengers, to be established and maintained between the Island and the mainland of the Dominion, Winter and Summer, thus placing the Island in continuous communication with the Intercolonial Railway and the railway system of the Dominion;

The maintenance of telegraphic communication between the Island and the mainland of the Dominion;

And such other charges as may be incident to, and connected with, the services which by the British North America Act, 1867, appertain to the General Government, and as are or may be allowed to the other Provinces;

That the railways under contract and in course of construction for the Government of the Island, shall be the property of Canada;

That the new building in which are held the Law Courts, Registry Office, etc., shall be transferred to Canada, on the payment of sixty-nine thousand dollars. The purchase to include the land on which the building stands, and a suitable space of ground in addition, for yard room, etc.;

That the Steam Dredge Boat in course of construction, shall be taken by the Dominion, at a cost not exceeding twenty-two thousand dollars;

That the Steam Ferry Boat owned by the Government of the Island, and used as such, shall remain the property of the Island;

That the population of Prince Edward Island having been increased by fifteen thousand or upwards since the year 1861, the Island shall be represented in the House of Commons of Canada by six Members; the representation to be readjusted, from time to time, under the provisions of the British North America Act, 1867;

That the constitution of the Executive Authority and of the Legislature of Prince Edward Island, shall, subject to the provisions of the British North America Act, 1867, continue, as at the time of the Union, until altered under the authority of the said Act, and the House of Assembly of Prince Edward Island existing at the date of the Union shall, unless sooner dissolved, continue for the period for which it was elected;

That the provisions in the British North America Act, 1867, shall, except those parts thereof which are in terms made, or by reasonable intendment, may be held to be especially applicable to, and only to affect one and not the whole of the Provinces now composing the Dominion, and except so far as the same may be varied by these resolutions, be applicable to Prince Edward Island, in the same way and to the same extent as they apply to the other Provinces of the Dominion, and as if the Colony of Prince Edward Island had been one of the Provinces originally united by the said Act.

That the Union shall take place on such day as Her Majesty may direct by Order in Council, on Addresses to that effect from the House of Parliament of Canada and of the Legislature of the Colony of Prince Edward Island, under the one hundred and forty-sixth section of the British North America Act, 1867, and that the Electoral Districts for which, the time within which, and the laws and provisions under which, the first Election of Members to serve in the House of Commons of Canada for such Electoral Districts shall be held, shall be such as the said Houses of the Legislature of the said Colony of Prince Edward Island may specify in their said Addresses.

We, therefore, humbly pray that Your Majesty will be graciously pleased, by and with the advice of Your Majesty's Most Honourable Privy Council, under the provisions of the one hundred and forty-sixth section of the British North America Act, 1867, to admit Prince Edward Island into the Union or Dominion of Canada, on the terms and conditions hereinbefore set forth.

(Signed) JAMES COCKBURN,
Speaker.

HOUSE OF COMMONS,
20th May, 1873.

The Queen's Most Excellent Majesty.

Most Gracious Sovereign,

We, Your Majesty's most dutiful and loyal subjects, the Senate of the Dominion of Canada in Parliament assembled, humbly approach Your Majesty for the purpose of representing:—

That on the sixteenth day of May, instant, His Excellency the Governor General transmitted for our information a copy of the minutes of a Conference between a Committee of the Privy Council of Canada and certain Delegates from the Colony of Prince Edward Island, on the subject of the Union of the said Colony with the Dominion of Canada, and of the Resolutions adopted by them, as the basis of such Union, which are in the following words, that is to say:—

(Here follows a statement of the conditions of Union as set forth in the Address of the House of Commons, supra, pages 170, 171 and 172.)

The House of Commons having in the present Session of the Parliament of the Dominion passed an Address to Your Majesty, praying that Your Majesty would be graciously pleased, by and with the advice of Your Most Honourable Privy Council, under the provisions of the one hundred and forty-sixth section of the British North America Act, 1867, to admit Prince Edward Island into the Union or Dominion of Canada, on the terms and conditions set forth in the above-mentioned Resolutions.

Wherefore, we, the Senate of Canada, fully concurring in the terms and conditions expressed in the Address of the House of Commons, humbly pray that Your Majesty will be pleased, by and with the advice of Your Most Honourable Privy Council, under the provisions of the one hundred and forty-sixth section of the British North America Act, 1867, to admit Prince Edward Island into the Dominion of Canada.

(Signed) P. J. O. CHAUVEAU,
Speaker of the Senate.

THE SENATE, May 21, 1873.

To the Queen's Most Excellent Majesty.

Most Gracious Sovereign,

We, Your Majesty's most dutiful and loyal subjects, the Legislative Council of Prince Edward Island, in Parliament assembled, humbly approach Your Majesty, and pray that Your Majesty will be graciously pleased, by and with the advice of Your Majesty's Most Honourable Privy Council, under the provisions of the one hundred and forty-sixth section of the British North America Act, 1867, to admit Prince Edward Island into the Union or Dominion of Canada, on the terms and conditions expressed in certain Resolutions recently passed by Houses of the Parliament of Canada, and also by the Houses of the Legislature of Prince Edward Island, which said Resolutions are as follows:—

(Here follows a statement of the conditions of Union as set forth in the Address of the House of Commons, supra.)

That for the first election of members to be returned by this Island for the House of Commons of the Dominion of Canada, this Island shall be divided into Electoral Districts as follows:—That "Prince County" shall constitute one district and return two members; that "Queen's County" shall constitute one district, and return two members; that "King's County" shall constitute one district, and return two members; that the first election of members to serve in the House of Commons of Canada, shall take place within three calendar months after this Island shall be admitted, and become part of the Dominion of Canada; and we further humbly pray, that all laws which at the date of the Order in Council, by which the said Island of Prince Edward shall be admitted into the Dominion of Canada, relating to the qualification of

any person to be elected to sit or vote as a member of the House of Assembly of the said Island, and relating to the qualifications or disqualifications of voters, and to the oaths to be taken by voters, and to returning officers and poll clerks, and their powers and duties, and relating to polling divisions within the said Island, and relating to the proceedings at elections, and to the period during which such election may be continued, and relating to the trial of controverted elections and the proceedings incident thereto, and relating to the vacating of seats of members, and to the execution of new writs, in case of any seat being vacated otherwise than by a dissolution, and all other matters connected with or incidental to elections of members to serve in the House of Assembly of the said Island, shall apply to elections of members to serve in the House of Commons for the Electoral Districts, situate in the said Island of Prince Edward.

(Signed) DONALD MONTGOMERY,
President.

COMMITTEE ROOM, LEGISLATIVE COUNCIL,
May 28, 1873.

To the Queen's Most Excellent Majesty.

Most Gracious Sovereign,

We, Your Majesty's most dutiful and loyal subjects, the House of Assembly of Prince Edward Island in Parliament assembled, humbly approach Your Majesty, and pray that Your Majesty will be graciously pleased, by and with the advice of Your Majesty's Most Honourable Privy Council, under the provisions of the one hundred and forty-sixth section of the British North America Act, 1867, to admit Prince Edward Island into the Union or Dominion of Canada, on the terms and conditions expressed in certain Resolutions recently passed by the Houses of the Parliament of Canada, and also by the Houses of the Legislature of Prince Edward Island, which said Resolutions are as follows:—

(Here follows a statement of the conditions of Union as set forth in the Address of the House of Commons, supra, and the Address concludes with a paragraph identical with the last paragraph of the Address of the Legislative Council of Prince Edward Island, supra.)

(Signed) STANISLAUS F. PERRY,
Speaker.

HOUSE OF ASSEMBLY,
May 28, 1873.

ORDER OF HER MAJESTY IN COUNCIL
ADMITTING ALL BRITISH TERRITORIES
AND POSSESSIONS IN NORTH AMERICA
AND ALL ISLANDS ADJACENT THERETO
INTO THE UNION ⁽¹¹⁵⁾

At the Court at Osborne House, Isle of Wight, the 31st
day of July, 1880.

PRESENT:

The Queen's Most Excellent Majesty,
Lord President,
Lord Steward,
Lord Chamberlain.

WHEREAS it is expedient that all British Territories and Possessions in North America, and the Islands adjacent to such Territories and Possessions which are not already included in the Dominion of Canada, should (with the exception of the Colony of Newfoundland and its dependencies) be annexed to and form part of the said Dominion.

And whereas, the Senate and Commons of Canada in Parliament assembled, have, in and by an Address, dated the 3rd day of May, 1878, represented to Her Majesty "That it is desirable that the Parliament of Canada, on the transfer of the before-mentioned Territories being completed, should have authority to legislate for their future welfare and good government, and the power to make all needful rules and regulations respecting them, the same as in the case of the other territories (of the Dominion); and that the Parliament of Canada expressed its willingness to assume the duties and obligations consequent thereon:"

And whereas, Her Majesty is graciously pleased to accede to the desire expressed in and by the said Address:

Now, therefore, it is hereby ordered and declared by Her Majesty, by and with the advice of Her Most Honourable Privy Council, as follows:—

From and after the first day of September, 1880, all British Territories and Possessions in North America, not already included within the Dominion of Canada, and all Islands adjacent to any of such Territories or Possessions, shall (with the exception of the Colony of Newfoundland and its dependencies) become and be annexed to and form part of the said Dominion of Canada; and become and be subject to the laws for the time being in force in the said Dominion, in so far as such laws may be applicable thereto.

C. L. PEEL.

⁽¹¹⁵⁾ It should be noticed that the Order in Council mentions "all British Territories and Possessions in North America, not already included within the Dominion of Canada, and all Islands adjacent to any of such Territories or Possessions" but "with the exception of the Colony of Newfoundland and its dependencies."

PART IV.

FEDERAL ACTS

RELATING TO THE FORMATION, ESTABLISHMENT,
BOUNDARIES, NATURAL RESOURCES, ETC.,
OF THE PROVINCES.

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* See at page 184 "Memorandum on law in federal matters in Manitoba prior to 1888" by Mr. J. B. Coyne, K.C.

ACTS OF CANADA.

THE NORTH-WEST TERRITORIES ACT.

32-33 VICTORIA CHAPTER 3.⁽¹¹⁶⁾

An Act for the temporary Government of Rupert's Land and the North-Western Territory when united with Canada.

[Assented to 22nd June, 1869.]

WHEREAS it is probable that Her Majesty the Queen may, pursuant to "The British North America Act, 1867," be pleased to admit Rupert's Land and the North-Western Territory into the Union or Dominion of Canada, before the next Session of the Canadian Parliament: And whereas it is expedient to prepare for the transfer of the said Territories from the Local Authorities to the Government of Canada, at the time appointed by the Queen for such admission, and to make some temporary provision for the Civil Government of such Territories until more permanent arrangements can be made by the Government and Legislature of Canada: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.

1. The said Territories when admitted as aforesaid, shall be styled and known as "The North-West Territories."

Name of territories.

2. It shall be lawful for the Governor, by any Order or Orders, to be by him from time to time made, with the advice of the Privy Council, (and subject to such conditions and restrictions as to him shall seem meet) to authorize and empower such Officer as he may from time to time appoint as Lieutenant-Governor of the North-West Territories, to make provision for the administration of Justice therein, and generally to make, ordain, and establish all such Laws, Institutions and Ordinances as may be necessary for the Peace, Order and good Government of Her Majesty's subjects and others therein; provided that all such Orders in Council, and all Laws and Ordinances, so to be made as aforesaid, shall be laid before both Houses of Parliament as soon as conveniently may be after the making and enactment thereof respectively.

Appointment and functions of Lieutenant-Governor.

⁽¹¹⁶⁾ This Act was first extended and continued by section 36 of chapter 3 of the Statutes of Canada, 1870 (33 Victoria, c. 3) (see page 187). Then these two Acts were confirmed by the Imperial Act 34-35 Victoria, chapter 28 (see *supra* at p. 71, section 5). Chapter 16 of the statutes of 1871 made provision for the government of the North West Territories after the expiration of 32-33 Victoria, chapter 3. The laws respecting the North West Territories were amended and consolidated by chapter 49 of the statutes of 1875, "*The North-West Territories Act, 1875.*"

The Act which is now in force is the *Northwest Territories Act*, chapter 142 of the Revised Statutes of Canada, 1927, as amended by chapter 38 of the statutes of 1938 and by chapter 36 of the statutes of 1940.

Instructions
to
Lieutenant
Governor.

3. The Lieutenant-Governor shall administer the Government under instructions from time to time given him by Order in Council.⁽¹¹⁷⁾

Appointment
of Council to
Lieutenant
Governor.

4. The Governor may, with the advice of the Privy Council, constitute and appoint, by Warrant under his Sign Manual, a Council of not exceeding fifteen nor less than seven persons, to aid the Lieutenant-Governor in the administration of affairs, with such powers as may be from time to time conferred upon them by Order in Council.

Existing
laws to
remain in
force.

5. All the Laws in force in Rupert's Land and the North-Western Territory, at the time of their admission into the Union, shall, so far as they are consistent with "The British North America Act, 1867",—with the terms and conditions of such admission approved of by the Queen under the 146th section thereof,—and with this Act,—remain in force until altered by the Parliament of Canada, or by the Lieutenant-Governor under the authority of this Act.⁽¹¹⁸⁾

Public
officers, etc.,
to retain
office.

6. All Public Officers and Functionaries holding office in Rupert's Land and the North-Western Territory, at the time of their admission into the Union, excepting the Public Officer or Functionary at the head of the administration of affairs, shall continue to be Public Officers and Functionaries of the North-West Territories with the same duties and powers as before, until otherwise ordered by the Lieutenant-Governor, under the authority of this Act.

Duration of
this Act.

7. This Act shall continue in force until the end of the next Session of Parliament.⁽¹¹⁹⁾

⁽¹¹⁷⁾ See 33 Victoria, chapter 3, section 6.

⁽¹¹⁸⁾ See Note ⁽¹¹⁶⁾, and also 34 Victoria, chapter 16 and 38 Victoria, chapter 49.

⁽¹¹⁹⁾ See Note ⁽¹¹⁶⁾.

THE MANITOBA ACT, 1870.⁽¹²⁰⁾

33 VICTORIA, CHAPTER 3.

An Act to amend and continue the Act 32 and 33 Victoria, chapter 3; and to establish and provide for the Government of the Province of Manitoba.

[Confirmed by Imperial Act 34 and 35 V., c. 28.]

[Assented to 12th May, 1870]

WHEREAS it is probable that Her Majesty The Queen may, pursuant to the British North America Act, 1867, be pleased to admit Rupert's Land and the North-Western Territory into the Union or Dominion of Canada, before the next Session of the Parliament of Canada. Preamble. []

And whereas it is expedient to prepare for the transfer of the said Territories to the Government of Canada at the time appointed by the Queen for such admission:

And whereas it is expedient also to provide for the organization of part of the said Territories as a Province, and for the establishment of a Government therefor, and to make provision for the Civil Government of the remaining part of the said Territories, not included within the limits of the Province:

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. On, from and after the day upon which the Queen, by and with the advice and consent of Her Majesty's Most Honourable Privy Council, under the authority of the 146th Section of the British North America Act, 1867, shall, by Order in Council in that behalf, admit Rupert's Land and the North-Western Territory into the Union or Dominion of Canada, there shall be formed out of the same a Province, which shall be one of the Provinces of the Dominion of Canada, and which shall be called the Province of Manitoba, and be bounded as follows: that is to say, commencing at the point where the meridian of ninety-six degrees west longitude from Greenwich intersects the parallel of forty-nine degrees north latitude,—thence due west along the said parallel of forty-nine degrees north latitude (which forms a portion of the boundary line between the United States of America and the said North-Western Territory) to the meridian of ninety-nine degrees of

Province to be formed out of N.W. territory when united to Canada.

Its name and boundaries.

⁽¹²⁰⁾ Manitoba, carved out of the North West Territories, was the first of the new provinces to be established after Confederation. The Canadian Act of 1870 (above) was passed in anticipation of the Imperial Order in Council (*see* Part III) admitting those territories. The Imperial Act of 1871 (*see* Part II) confirms the Canadian Act. *See also* section 146 of the B.N.A. Act, 1867, and Note ⁽⁷⁵⁾, *also* the B.N.A. Act, 1886.

west longitude,—thence due north along the said meridian of ninety-nine degrees west longitude, to the intersection of the same with the parallel of fifty degrees and thirty minutes north latitude,—thence due east along the said parallel of fifty degrees and thirty minutes north latitude to its intersection with the before-mentioned meridian of ninety-six degrees west longitude,—thence due south along the said meridian of ninety-six degrees west longitude to the place of beginning.⁽¹²¹⁾

Certain provisions of B. N. A. Act, 1867, to apply to Manitoba

2. On, from and after the said day on which the Order of the Queen in Council shall take effect as aforesaid, the provisions of the British North America Act, 1867, shall, except those parts thereof which are in terms made, or, by reasonable intendment, may be held to be specially applicable to, or only to affect one or more, but not the whole of the Provinces now composing the Dominion, and except so far as the same may be varied by this Act, be applicable to the Province of Manitoba, in the same way, and to the like extent as they apply to the several Provinces of Canada, and as if the Province of Manitoba had been one of the Provinces originally united by the said Act.

Representation in the Senate.

3. The said Province shall be represented in the Senate of Canada by two Members, until it shall have, according to

⁽¹²¹⁾ Repealed R.S.C. 1886, Sch. A.

The boundaries as set out in this section have been dealt with from time to time by the following enactments—

(1881) 44 Vict., c. 14 (Dom.); (1881) 44 Vict., c. 14 (Man.); (1912) 2 Geo. V, c. 32 (Dom.); (1912) 2 Geo. V, c. 6 (Man.); (1928) S.M., c. 3 (Man.); 1930 20-21 Geo. V, c. 28 (Dom.); 1929 S.M., c. 4 (Man.); *see also* R.S.O. 1937, c. 3, Appendix "B"; 1937 S.M., c. 5 (Man.) *see also* S. Sask. 1937, c. 96.

All the territory now known as Manitoba together with other territory, was originally granted to "The Governor and Company of Adventurers of England trading into the Hudson Bay" by charter of King Charles II dated 2nd May, 1670, and therein was named "Rupert's Land," and by said charter authority was given to said Governor and Company to make reasonable laws not inconsistent with those of England for the good government of the said Company, its governors, factors, masters, and other officers employed in any of the territory included in the said charter. The laws so made were known as the laws of Assiniboia (*see Consolidated Statutes, Manitoba, 1880-81, p. LIV*).

Rupert's Land Act (1868) 31-32 Vict., c. 105 (Imp.) was enacted enabling Her Majesty to accept a surrender upon terms of the lands, privileges and rights of "The Governor and Company of Adventurers of England trading into the Hudson Bay," and for admitting the same into the Dominion of Canada, and by an order of Her Majesty in Council dated 23rd June, 1870, Rupert's Land became part of Canada, out of which Manitoba was formed by this Act.

All powers, authorities and jurisdiction of the several courts of justice established at the date of Rupert's Land Act (31st May, 1868) and of the several officers thereof and of all magistrates and justices then acting therein were by that Act continued until the Parliament of Canada otherwise enacted.

By 34 Vict., c. 13 (Dom.), ss. 1 to 6 (14th April, 1871), all enactments of the Parliament of Canada passed in the first three sessions thereof relating generally to all provinces of Canada were declared in force in Manitoba and all inconsistent laws then in force therein were repealed.

By 34 Vict., c. 14 (Dom.), s. 1 (14th April, 1871), certain criminal laws of Canada therein set out were declared in force in Manitoba and section 2 provided that the "court known as the general court, now or hereafter existing in the Province of Manitoba and any court to be hereafter constituted by the Legislature of Manitoba and having the powers now exercised by the general court" should have power to determine and try all criminal cases in Manitoba or in the Territories.

The Supreme Court of Manitoba, now the Court of King's Bench, was established by S.M. 34 Vict., c. 2 (3rd May, 1871), but was not organized and brought into operation until the appointment of its first judge, Honourable Alexander Morris, who took the oath of office on August 14th, 1872.

See article "The Rise of Law in Rupert's Land," Vol. 1, Western Law Times, p. 49.

[The notes to this section are copied without change from the Revised Statutes of Manitoba, 1940, page 3705.]

It may be noted also that in 1912 part of the district of Keewatin, immediately north of the province, was added to Manitoba.

decennial census, a population of fifty thousand souls, and from thenceforth it shall be represented therein by three Members, until it shall have, according to decennial census, a population of seventy-five thousand souls, and from thenceforth it shall be represented therein by four Members.⁽¹²²⁾

4. The said Province shall be represented, in the first instance, in the House of Commons of Canada, by four Members, and for that purpose shall be divided by proclamation of the Governor General, into four Electoral Districts, each of which shall be represented by one Member: Provided that on the completion of the census in the year 1881, and of each decennial census afterwards, the representation of the said Province shall be re-adjusted according to the provisions of the fifty-first section of the British North America Act, 1867.⁽¹²³⁾

Representa-
tion in the
House of
Commons.

5. Until the Parliament of Canada otherwise provides, the qualification of voters at Elections of Members of the House of Commons shall be the same as for the Legislative Assembly hereinafter mentioned: And no person shall be qualified to be elected, or to sit and vote as a Member for any Electoral District, unless he is a duly qualified voter within the said Province.⁽¹²⁴⁾

Qualifica-
tion of
voters and
members.

6. For the said Province there shall be an officer styled the Lieutenant-Governor, appointed by the Governor General in Council, by instrument under the Great Seal of Canada.

Lieutenant-
Governor.

7. The Executive Council of the Province shall be composed of such persons, and under such designations, as the Lieutenant-Governor shall, from time to time, think fit; and, in the first instance, of not more than five persons.

Executive
Council.

8. Unless and until the Executive Government of the Province otherwise directs, the seat of Government of the same shall be at Fort Garry, or within one mile thereof.

Seat of
Government

9. There shall be a Legislature for the Province, consisting of the Lieutenant-Governor, and of two Houses styled respectively, the Legislative Council of Manitoba, and the Legislative Assembly of Manitoba.⁽¹²⁵⁾

Legislature.

10. The Legislative Council shall, in the first instance, be composed of seven Members, and after the expiration of four years from the time of the first appointment of such seven

Legislative
Council.

⁽¹²²⁾ Repealed, R.S.C. 1886, sch. A, p. 2280. Replaced by s. 1 of c. 12 of the R.S. 1886 which granted Manitoba three senators until it had a population of 75,000, from thenceforth Manitoba was to have four senators. This Act was repealed, *see* R.S.C. 1906, p. 2941. Manitoba, like the other three western provinces, has now six senators. *See supra*, s. 1 of The British North America Act, 1915. [5-6 George V, chapter 45.]

⁽¹²³⁾ Repealed, R.S.C. 1886, sch. A, p. 2280. If there had been a Representation Act in 1943, Manitoba would have had but fourteen members, which is three less than it had by the Representation Act, 1933. (*See ante* B.N.A. Act, 1943, page 118). Representation in the House of Commons is governed by section 51 of The British North America Act, 1867.

⁽¹²⁴⁾ Repealed, R.S. 1886, sch. A, p. 2280.

(For present qualifications of voters and members now fixed by "The Manitoba Election Act."—*See* R.S.M. 1940, c. 57.)

[This note and those following in this Act are taken from R.S.M., pp. 3708-3715.]

⁽¹²⁵⁾ The Legislative Council was abolished by the Provincial Legislature (S.M. 1876, *see* c. 28, s. 2). Therefore sections 9 to 13, both inclusive, of this Act are now inoperative.

Members and their appointment, etc.	Members, may be increased to not more than twelve Members. Every Member of the Legislative Council shall be appointed by the Lieutenant-Governor in the Queen's name, by Instrument under the Great Seal of Manitoba, and shall hold office for the term of his life, unless and until the Legislature of Manitoba otherwise provides under the British North America Act, 1867.
Speaker.	11. The Lieutenant-Governor may, from time to time, by Instrument under the Great Seal, appoint a Member of the Legislative Council to be Speaker thereof, and may remove him and appoint another in his stead.
Quorum.	12. Until the Legislature of the Province otherwise provides, the presence of a majority of the whole number of the Legislative Council, including the Speaker, shall be necessary to constitute a meeting for the exercise of its powers.
Voting.	13. Questions arising in the Legislative Council shall be decided by a majority of voices, and the Speaker shall, in all cases, have a vote, and when the voices are equal the decision shall be deemed to be in the negative.
Equality of votes.	
Legislative Assembly.	14. The Legislative Assembly shall be composed of twenty-four Members, to be elected to represent the Electoral Divisions into which the said Province may be divided by the Lieutenant-Governor, as hereinafter mentioned. ⁽¹²⁶⁾
Quorum.	15. The presence of a majority of the Members of the Legislative Assembly shall be necessary to constitute a meeting of the House for the exercise of its powers; and for that purpose the Speaker shall be reckoned as a Member. ⁽¹²⁷⁾
Electoral Division.	16. The Lieutenant Governor shall (within six months of the date of the Order of Her Majesty in Council, admitting Rupert's Land and the North-Western Territory into the Union), by Proclamation under the Great Seal, divide the said Province into twenty-four Electoral Divisions, due regard being had to existing Local Divisions and population. ⁽¹²⁸⁾
Qualification of voters.	17. Every male person shall be entitled to vote for a Member to serve in the Legislative Assembly for any Electoral Division, who is qualified as follows, that is to say:— (1) Of the full age of twenty-one years, and not subject to any legal incapacity; (2) A subject of Her Majesty by birth or naturalization; (3) And a <i>bonâ fide</i> householder within the Electoral Division, at the date of the Writ of Election for the same, and has been a <i>bonâ fide</i> householder for one year next before the said date; or, (4) If, being of the full age of twenty-one years, and not subject to any legal incapacity, and a subject of Her
Special,—for first election only.	

⁽¹²⁶⁾ The Legislative Assembly is now composed of fifty-five members.—See "The Legislative Assembly Act," R.S.M. 1940, c. 116.

⁽¹²⁷⁾ A quorum is now fixed at ten members of whom the Speaker may be one.—See "The Legislative Assembly Act," R.S.M. 1940, c. 116.

⁽¹²⁸⁾ The electoral divisions now number forty-six.—See "The Electoral Divisions Act," R.S.M. 1940, c. 58.

Majesty by birth or naturalization, he was, at any time within twelve months prior to the passing of this Act, and (though in the interim temporarily absent) is at the time of such election a *bonâ fide* householder, and was resident within the Electoral Division at the date of the Writ of Election for the same:

But this fourth sub-section shall apply only to the first election to be held under this Act for Members to serve in the Legislative Assembly aforesaid.⁽¹²⁹⁾ Proviso.

18. For the first election of Members to serve in the Legislative Assembly, and until the Legislature of the Province otherwise provides, the Lieutenant-Governor shall cause writs to be issued, by such person, in such form, and addressed to such Returning Officers as he thinks fit; and for the first election, and until the Legislature of the Province otherwise provides, the Lieutenant-Governor shall, by Proclamation, prescribe and declare the oaths to be taken by voters, the powers and duties of Returning and Deputy Returning Officers, the proceedings to be observed at such election, and the period during which such election may be continued, and such other provisions in respect to such first election as he may think fit.⁽¹³⁰⁾ Proceedings at first election, etc.,—how regulated.

19. Every Legislative Assembly shall continue for four years from the date of the return of the writs for returning the same (subject nevertheless to being sooner dissolved by the Lieutenant-Governor), and no longer; and the first Session thereof shall be called at such time as the Lieutenant-Governor shall appoint.⁽¹³¹⁾ Duration of Legislative Assembly.

20. There shall be a Session of the Legislature once at least in every year, so that twelve months shall not intervene between the last sitting of the Legislature in one Session and its first sitting in the next Session. Sessions at least once a year.

21. The following provisions of the British North America Act, 1867, respecting the House of Commons of Canada shall extend and apply to the Legislative Assembly, that is to say:—Provisions relating to the election of a Speaker, originally, and on vacancies,—the duties of the Speaker,—the absence of the Speaker and the mode of voting, as if those provisions were here re-enacted and made applicable in terms to the Legislative Assembly. Certain provisions of B. N. A. Act, 1867, to apply.

22. In and for the Province, the said Legislature may exclusively make Laws in relation to Education, subject and according to the following provisions:— Legislation touching schools subject to certain provisions.

(1) Nothing in any such Law shall prejudicially affect any right or privilege with respect to Denominational Schools which any class of persons have by Law or practice in the Province at the Union:

⁽¹²⁹⁾ The qualifications of voters are now fixed by "The Manitoba Election Act," R.S.M. 1940, c. 57.

⁽¹³⁰⁾ The mode of conducting elections is now fixed by "The Manitoba Election Act," R.S.M. 1940, c. 57.

⁽¹³¹⁾ See now for duration of Assembly, R.S.M. 1940, c. 116.

(2) An appeal shall lie to the Governor General in Council from any Act or decision of the Legislature of the Province, or of any Provincial Authority, affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to Education:

Power reserved to Parliament.

(3) In case any such Provincial Law, as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section, is not made, or in case any decision of the Governor General in Council or any appeal under this section is not duly executed by the proper Provincial Authority in that behalf, then, and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial Laws for the due execution of the provisions of this section, and of any decision of the Governor General in Council under this section.

English and French languages to be used.

23. Either the English or the French language may be used by any person in the debates of the Houses of the Legislature, and both those languages shall be used in the respective Records and Journals of those Houses; and either of those languages may be used by any person, or in any Pleading or Process, in or issuing from any Court of Canada established under the British North America Act, 1867, or in or from all or any of the Courts of the Province. The Acts of the Legislature shall be printed and published in both those languages.⁽¹³²⁾

Interest allowed to the Province on a certain amount of the debt of Canada.

24. Inasmuch as the Province is not in debt, the said Province shall be entitled to be paid, and to receive from the Government of Canada, by half-yearly payments in advance, interest at the rate of five per centum per annum on the sum of four hundred and seventy-two thousand and ninety dollars.⁽¹³³⁾

Subsidy to the Province for support of Government, and in proportion to its population.

25. The sum of thirty thousand dollars shall be paid yearly by Canada to the Province, for the support of its Government and Legislature, and an annual grant, in aid of the said Province, shall be made, equal to eighty cents per head of the population, estimated at seventeen thousand souls; and such grant of eighty cents per head shall be augmented in proportion to the increase of population, as may be shown by the census and shall be taken thereof in the year one thousand eight hundred and eighty-one, and by each subsequent decennial census, until its population amounts to four hundred thousand souls, at which amount such grant shall remain thereafter, and such sum shall be in full settlement of all future demands on Canada, and shall be paid half-yearly, in advance, to the said Province.⁽¹³⁴⁾

Canada assumes certain expenses.

26. Canada will assume and defray the charges for the following services:—

1. Salary of the Lieutenant-Governor.

⁽¹³²⁾ By Act of the Provincial Legislature, so far as that Legislature has jurisdiction to enact, the English language alone is to be used in the records and journals of the Legislative Assembly, and in the pleadings and process of the courts. See R.S.M. 1940, c. 152.

⁽¹³³⁾ Superseded by 2 Geo. V, c. 32, s. 4 (Statutes of Canada).

⁽¹³⁴⁾ Repealed, R.S.C. 1886, sch. A, p. 2280. See now B.N.A. Act (1907), c. 11, s. 1 and notes to s. 118 of the B.N.A. Act, 1867.

2. Salaries and allowances of the Judges of the Superior and District or County Courts.

3. Charges in respect of the Department of the Customs.

4. Postal Department.

5. Protection of Fisheries.

6. Militia.

7. Geological Survey.

8. The Penitentiary.

9. And such further charges as may be incident to, and connected with the services which, by the British North America Act, 1867, appertain to the General Government, and as are or may be allowed to the other Provinces.

General provision.

27. The Customs duties now by Law chargeable in Rupert's Land, shall be continued without increase for the period of three years from and after the passing of this Act, and the proceeds of such duties shall form part of the Consolidated Revenue Fund of Canada.⁽¹³⁵⁾

Customs duties.

28. Such provisions of the Customs Laws of Canada (other than such as prescribe the rate of duties payable) as may be from time to time declared by the Governor General in Council to apply to the Province of Manitoba, shall be applicable thereto, and in force therein accordingly.⁽¹³⁶⁾

Customs laws.

29. Such provisions of the Laws of Canada respecting the Inland Revenue, including those fixing the amount of duties, as may be from time to time declared by the Governor General in Council applicable to the said Province, shall apply thereto, and be in force therein accordingly.⁽¹³⁷⁾

Inland Revenue laws and duties.

30. All ungranted or waste lands in the Province shall be, from and after the date of the said transfer, vested in the Crown, and administered by the Government of Canada for the purposes of the Dominion, subject to, and except and so far as the same may be affected by, the conditions and stipulations contained in the agreement for the surrender of Rupert's Land by the Hudson's Bay Company to Her Majesty.⁽¹³⁸⁾

Ungranted lands vested in the Crown for Dominion purposes.

31. And whereas, it is expedient, towards the extinguishment of the Indian Title to the lands in the Province, to appropriate a portion of such ungranted lands, to the extent of one million four hundred thousand acres thereof, for the benefit of the families of the half-breed residents, it is hereby enacted, that, under regulations to be from time to time made by the Governor General in Council, the Lieutenant-Governor shall select such lots or tracts in such parts of the Province as he may deem expedient, to the extent aforesaid, and divide the same among the children of the half-breed heads of families

Provisions as to Indian title.

Grant for half-breeds.

⁽¹³⁵⁾ Repealed, R.S.C. 1885, sch. A, p. 2280.

⁽¹³⁶⁾ Repealed, R.S.C. 1886, sch. A, p. 2280.

⁽¹³⁷⁾ Repealed, R.S.C. 1886, sch. A, p. 2280.

⁽¹³⁸⁾ Repealed, R.S.C. 1886, sch. A, p. 2280.

Replaced by R.S.C. 1886, c. 47, s. 3, which also has been repealed. See R.S.C. 1906, p. 2941.

For the allowance in lieu of lands see, now, 2 Geo. V, c. 32 (D).

residing in the Province at the time of the said transfer to Canada, and the same shall be granted to the said children respectively, in such mode and on such conditions as to settlement and otherwise, as the Governor General in Council may from time to time determine.⁽¹³⁹⁾

Quieting titles.

32. For the quieting of titles, and assuring to the settlers in the Province the peaceable possession of the lands now held by them, it is enacted as follows:—

Grants by H. B. Company.

1. All grants of land in freehold made by the Hudson's Bay Company up to the eighth day of March, in the year 1869, shall, if required by the owner, be confirmed by grant from the Crown.

The same.

2. All grants of estates less than freehold in land made by the Hudson's Bay Company up to the eighth day of March aforesaid, shall, if required by the owner, be converted into an estate in freehold by grant from the Crown.

Titles by occupancy with permission.

3. All titles by occupancy with the sanction and under the license and authority of the Hudson's Bay Company up to the eighth day of March aforesaid, of land in that part of the Province in which the Indian Title has been extinguished, shall, if required by the owner, be converted into an estate in freehold by grant from the Crown.

By peaceable possession.

4. All persons in peaceable possession of tracts of land at the time of the transfer to Canada, in those parts of the Province in which the Indian Title has not been extinguished, shall have the right of pre-emption of the same, on such terms and conditions as may be determined by the Governor in Council.

Lieut.-Governor to make provisions under Order in Council.

5. The Lieutenant-Governor is hereby authorized, under regulations to be made from time to time by the Governor General in Council, to make all such provisions for ascertaining and adjusting, on fair and equitable terms, the rights of Common, and rights of cutting Hay held and enjoyed by the settlers in the Province, and for the commutation of the same by grants of land from the Crown.⁽¹⁴⁰⁾

Governor in Council to appoint form, etc., of grants.

33. The Governor General in Council shall from time to time settle and appoint the mode and form of Grants of Land from the Crown, and any Order in Council for that purpose when published in the *Canada Gazette*, shall have the same force and effect as if it were a portion of this Act.⁽¹⁴¹⁾

Rights of H. B. Company not affected.

34. Nothing in this Act shall in any way prejudice or affect the rights or properties of the Hudson's Bay Company, as contained in the conditions under which that Company surrendered Rupert's Land to Her Majesty.⁽¹⁴²⁾

Lieut.-Governor to govern N. W. Territory for Canada.

35. And with respect to such portion of Rupert's Land and the North-Western Territory, as is not included in the Province of Manitoba, it is hereby enacted, that the Lieutenant-

⁽¹³⁹⁾ Repealed, R.S.C. 1883, sch. A, p. 2280.

⁽¹⁴⁰⁾ Repealed, R.S.C. 1886, sch. A, p. 2280.

Provisions of this section, except s.-s. 5, embodied in R.S.C. 1906, c. 99, ss. 21, 22.

⁽¹⁴¹⁾ Repealed, R.S.C. 1886, sch. A, p. 2280.

⁽¹⁴²⁾ Repealed, R.S.C. 1886, sch. A, p. 2280.

Governor of the said Province shall be appointed, by Commission under the Great Seal of Canada, to be the Lieutenant-Governor of the same, under the name of the North-West Territories, and subject to the provisions of the Act in the next section mentioned.⁽¹⁴³⁾

36. Except as hereinbefore is enacted and provided, the Act of the Parliament of Canada, passed in the now last Session thereof, and entitled "An Act for the Temporary Government of Rupert's Land, and the North-Western Territory when united with Canada," is hereby re-enacted, extended and continued in force until the first day of January, 1871, and until the end of the Session of Parliament then next succeeding.⁽¹⁴⁴⁾

Act 32 and
33 V., c. 3,
extended and
continued.

⁽¹⁴³⁾ Repealed, 38 V., c. 39, s. 76.

⁽¹⁴⁴⁾ Repealed, R.S.C. 1886, sch. A, p. 2280.

MEMORANDUM ON LAW IN FEDERAL MATTERS IN MANITOBA PRIOR TO 1888

(by Mr. J. B. Coyne, K.C. of the Bar of Manitoba.)

When Rupertsland and the North West Territories were admitted into Canada the Parliament of Canada was given power to make laws for the area so admitted (sec. 5, Imp. Act, p. 69). By the North West Territories Act, 1869, the Canadian Parliament continued all laws then in effect so far as consistent with the B.N.A. Act, etc. (sec. 5, p. 178). The Manitoba Act (p. 171) contained no specific provision continuing these laws but by that Act all provisions of the B.N.A. Act applicable to *all* the uniting provinces were made applicable to Manitoba (sec. 2, p. 180). By sec. 129 of the B.N.A. Act all laws of the uniting provinces at the time of the Union were continued in effect. These provisions were interpreted as meaning that the laws of the area embraced in Manitoba as they stood on July 15th, 1870, the date of Manitoba's entry into the Union, continued in Manitoba.

The further question was what laws were in effect on July 15th, 1870, in the area embraced in Manitoba.

The law of England as of 1670, the date of the Charter of the Hudson's Bay Company, prevailed from the Company's inception in its Territory. But by the Charter and the action of the Company thereunder, the Council of Assiniboia had power to make laws for the Territory. In 1862 the Council enacted that "In place of the laws of England as of the date of the Hudson's Bay Company's Charter, the laws of England of Her Majesty's accession, so far as they may be applicable to the colony, shall regulate the proceedings of the General Court of Assiniboia". On January 7th, 1864, this was amended to embrace English laws as of the latter date.

Two cases in the King's Bench of Manitoba, one by the full Court of King's Bench and the other by Taylor, J., held that the English law as it stood on January 7th, 1864, was the law of Assiniboia.

But in December, 1887, in *Sinclair v. Mulligan*, 5 M.R. 17, a different view was expressed in the Full Court of Manitoba, although this was clearly unnecessary for the decision of the case. The trial judge, Killam J., gave his opinion that only the law of England relating to practice and procedure was introduced in 1862 and 1864 into the law of Assiniboia and consequently that the English law of 1670 was the substantive law in Rupertsland and the North West Territories at the time of their becoming part of Canada, and therefore in Manitoba. Taylor, C. J., agreed, although Dubuc, J., the other judge sitting with him in the Full Court, doubted.

The Legislature of Manitoba had enacted that the laws of England as of the 15th July, 1870, so far as the same can be made applicable to Manitoba, should be the law of Manitoba in all matters within the jurisdiction of the legislature. (*See* statutes of 1874, 38 Vic., c. 12.5.1).

In view of the uncertainty caused by *Sinclair v. Mulligan* in regard to the law governing matters within the legislative jurisdiction of the Dominion, Parliament passed the Act of 51 Vic., Chapter 53, comprising what is now Sec. 4 of the Manitoba Supplementary Provision Act, making the law of England as of July 15th, 1870, applicable in all matters within the jurisdiction of the Parliament of Canada. (*See: Walker v. Walker*, 1918, 2 W.W.R. 233, 28 M.R. 495, Court of Appeal; 1919, 2 W.R. 935, A.C. 947, 88 L.J.P.C. 156.) Thereby English law of that date so far as it could be applied to conditions in Manitoba, became the law of Manitoba in both fields, provincial and federal.

THE MANITOBA SUPPLEMENTARY PROVISIONS ACT.

R.S., 1927, CHAPTER 124.

An Act respecting the Province of Manitoba.⁽¹⁴⁵⁾

SHORT TITLE.

Short title. **1.** This Act may be cited as the Manitoba Supplementary Provisions Act. R.S., c. 99, s. 1.

INTERPRETATION.

Definitions. **2.** In this Act, unless the context otherwise requires,
"Commissioners." (a) "commissioners" includes the commissioner in cases in which the commission is issued to one person only;
"Minister." (b) "Minister" means the Minister of the Interior;
"Province." (c) "Province" means the province of Manitoba. R.S., c. 99, s. 2.

PART I.

GENERAL.

Allotment of 150,000 acres for a university. **3.** An allotment of land, not exceeding one hundred and fifty thousand acres, of fair average quality, shall be selected by the Dominion Government and granted as an endowment to the University of Manitoba for its maintenance as a university capable of giving proper training in the higher branches of education, and to be held in trust for that purpose upon some basis or scheme to be framed by the University and approved by the Dominion Government. R.S., c. 99, s. 4.

Laws in force in Manitoba. **4.** Subject to the provisions of this Act, the laws of England relating to matters within the jurisdiction of the Parliament of Canada, as the same existed on the fifteenth day of July, one thousand eight hundred and seventy, were from the said day and are in force in the Province, in so far as applicable to the Province, and in so far as the said laws have not been or are not hereafter repealed, altered, varied, modified or affected by any Act of the Parliament of Great Britain applicable to the Province, or of the Parliament of Canada. R.S., c. 99, s. 6.

⁽¹⁴⁵⁾ This Act is a consolidation of the following Acts:—

38 V., c. 53 (Land Claims in Manitoba), 1875.

39 V., c. 20 (Roads and Road Allowances in Manitoba), 1876.

44 V., c. 14 (Boundaries of Manitoba, extension), 1881.

51 V., c. 33 (Application of certain laws to Manitoba), 1888.

58-59 V., c. 30 (Roads and Road Allowances in Manitoba), 1895.

The Manitoba Legislature had introduced English law as of July 15th, 1870 in respect of matters within the jurisdiction of the Legislature "so far as the same can be made applicable" to such matters in the Province.

A decision of the Manitoba Court in December, 1887 left some uncertainty whether English law as of 1670 or 1864 was the law applicable in the area of that province before the Union and therefore uncertainty as to the English law applicable in Manitoba, in respect of matters within the jurisdiction of the Parliament of Canada. Parliament responded in 1888 by passing sec. 4 above. (See Walker v. Walker, 1918, 2 W.W.R. 233, 28 M.R. 495 (Court of Appeal); 1919, 2 W.W.R. 935, A.C. 947, 88 L.J.P.C. 156). See also: Memorandum on page 184.

PART II.

ROADS AND ROAD ALLOWANCES.

5. All road allowances in townships surveyed and subdivided, and all road allowances set out on base and meridian lines surveyed, in the Province shall be vested in the Crown in the right of the Province; and it is hereby declared that all road allowances in townships heretofore surveyed and subdivided, and all road allowances set out on base and meridian lines heretofore surveyed in the Province, shall be deemed to have become the property of the Crown in the right of the Province upon the confirmation of the survey. R.S., c. 99, s. 7.

Certain road allowances the property of the Province.

6. On the survey and subdivision of any township within the Province, and the approval of such survey and subdivision of any township, the fact shall be notified to the Lieutenant-Governor by the Minister, and by virtue of such notification all section road allowances in such township shall become the property of the Province. R.S., c. 99, s. 8.

Section road allowances in townships belong to the Province.

7. On the Government of Canada receiving notice from the Government of the Province of the particular thoroughfares or public travelled roads or trails in the Province which existed as such on the fifteenth day of July, one thousand eight hundred and seventy, and which the Government of the Province desires to have transferred to the Province, the Governor in Council may pass an order directing the same to be forthwith surveyed by a Dominion land surveyor, and thereafter may transfer each such thoroughfare, public travelled road or trail, according to the plan and description thereof, to the Province, subject to any rights acquired under patents for any lands crossed thereby, issued previously to the receipt of such notice: Provided that except those public thoroughfares in the Province which are designated as great highways by the first section of the Act of the legislature of Manitoba, passed in the year one thousand eight hundred and seventy-one, chapter thirteen, the width of which shall be two chains, no such thoroughfare, public travelled road or trail as hereinbefore mentioned, transferred to the Province, shall be held to have a greater width than one and one-half chains, or ninety-nine feet. R.S., c. 99, s. 9.

Roads existing on 15th July, 1870, may be transferred to the Province.

8. The Minister shall cause roads to be laid out, in the survey of the outer two miles, known as the hay privilege, granted or proposed to be granted to the owners of the front lots in the old parishes, as follows:—

Roads in the outer two miles.

- (a) A road one chain and fifty links wide in rear of the farms fronting on the Red and Assiniboine rivers, and between the said farms and the corresponding lots in the outer two miles or hay privilege before mentioned;
- (b) A road one chain and fifty links wide in rear of the lots contained in the outer two miles or hay privilege before mentioned, and between them and the sections, or legal subdivisions thereof, bounding the same, except

In rear and between certain farms.

Between the outer two miles and sections bounding thereon.

in cases where the said rear boundary of the said lots proves to be a regular section line in the township survey;

Between
lots in
outer two
miles.

- (c) Roads, each one chain in width, at convenient distances, say every two miles or thereabouts, between lots in the said outer two miles, and running from the front to the rear thereof.

Where to
be laid out.

2. The roads provided for in the last foregoing paragraph shall be laid out between such lots as the Minister indicates with that view, and shall be taken half off each of such lots, or the whole width off one of such lots, in the discretion of the Minister.

Compensa-
tion for
lands.

3. The persons to whom such lots have been granted, or to whom it is proposed to grant such lots, may be compensated by the Minister for the quantity of land respectively contributed by them to any such road, by the issue of land scrip to them at the rate of one dollar and fifty cents for each acre of land so contributed. R.S., c. 99, s. 10.

Transfer
by Governor
in Council.

9. The Governor in Council may, on the report of the Minister, transfer to the Crown in the right of the Province

- (a) the several roads provided for by the last preceding section;
- (b) all road allowances around, adjoining, or leading to park lots or portions of sections within the outer two miles of any parish in the Province, as such road allowances are shown on the plan of the Dominion Government survey of such outer two miles;
- (c) all road allowances between lots in the inner two miles of any parish in the Province, as such road allowances are shown on the plan of the Dominion Government survey of such inner two miles. R.S., c. 99, s. 11.

Land vested
in Province.

10. The unpatented land forming part of any road transferred to the Crown in the right of the Province by or under this Part, or declared by this Part to be the property of the Crown in the right of the Province shall be vested in the Crown as aforesaid.

Road not to
be closed or
altered
without
consent
of Governor
in Council.

2. No such road shall be closed up or its direction varied, or any part of the land occupied by it sold or otherwise alienated, without the consent of the Governor in Council: Provided that in the case of any such road situate within the limits of an organized municipality within the Province the consent of the Lieutenant-Governor in Council shall alone be necessary. R.S., c. 99, s. 12.

Opening of
colonization
roads.

11. The Lieutenant-Governor of Manitoba in Council may at any time, with the consent of the Governor in Council, where it is deemed advisable to do so for the purposes of settlement and colonization, direct roads to be opened through any unpatented lands, whether occupied or not, and whether such lands have been homesteaded, pre-empted, set apart or reserved for the benefit or use of any person; and the Governor in Council

may thereafter, on the report of the Minister, transfer such roads to the Crown in the right of the Province. R.S., c. 99, s. 13.

12. Until the survey and transfer to the Crown in the right of the Province of any road, road allowance, trail, highway or great highway, the Attorney General of Manitoba may take such proceedings as are necessary to keep open any road, trail, road allowance, highway or great highway heretofore used or opened. R.S., c. 99, s. 14.

Keeping open roads heretofore opened.

13. Except as hereinafter provided, upon the transfer to the Crown in the right of the Province of any road, trail, road allowance, highway or great highway, under this Part, the boundaries and lines thereof, as shown on the plan of the Dominion Government survey thereof, shall thereafter be the true boundaries and lines, until varied under the provisions of this Part. R.S., c. 99, s. 15

Boundaries of roads transferred.

14. All roads, trails, road allowances, highways or great highways of any of the classes referred to in this Part, which are shown on any sectional plan of the city of Winnipeg which has been prepared and confirmed by the Lieutenant-Governor of Manitoba in Council under chapter one hundred and forty-two of the Revised Statutes of Manitoba 1891, are hereby transferred to and vested in the Crown in the right of the Province.

Certain roads in Winnipeg transferred to the Province.

2. The boundaries and lines of all such roads, trails, road allowances, highways and great highways, as such boundaries and lines are shown on any such sectional plan, are hereby declared to be the true boundaries thereof, whether or not they are the true boundaries and lines according to any Dominion Government survey thereof. R.S., c. 99, s. 16.

Boundaries of such roads.

15. The Governor in Council may, on the report of the Minister, transfer to the Crown in the right of the Province all such roads, trails, road allowances, highways and great highways as are referred to in the last preceding section, and which are shown on any sectional plan of the city of Winnipeg prepared and confirmed by the Lieutenant-Governor of Manitoba in Council under chapter one hundred and forty-two of the Revised Statutes of Manitoba 1891.

Certain other roads in Winnipeg may be transferred to the Province.

2. The Governor in Council may declare the boundaries and lines of any such roads, trails, road allowances, highways and great highways, as such boundaries and lines are shown on any such sectional plan, to be the true boundaries and lines, whether or not they are the true boundaries and lines according to any Dominion Government survey thereof. R.S., c. 99, s. 17.

Declaration as to boundaries.

16. Upon the transfer to the Crown in the right of the Province taking place under either of the last two preceding sections, all roads, trails, road allowances, highways and great highways provided for by this Part, within the limits covered by any such sectional plan, except such roads, trails, road allowances, highways and great highways as are shown on such sectional plans, shall be and remain closed. R.S., c. 99, s. 18.

Certain roads to be closed.

Plan marked
7a in the
Land Titles
Office
approved.

Boundaries
confirmed.

17. The sectional plan numbered 7a, filed in the Land Titles Office of the district of Winnipeg, on the twenty-seventh day of June, one thousand eight hundred and ninety-nine, as number five hundred and fifty-nine, is approved, and the boundaries and lines of all roads, trails, road allowances, highways and great highways, as such boundaries and lines are shown on the said plan, are hereby declared to be the true boundaries thereof, whether or not they are the true boundaries and lines according to any Dominion Government survey thereof. R.S., c. 99, s. 19.

Saving.

18. Nothing in this Part shall affect

- (a) any right claimed or set up in any action or proceeding pending in any court of competent jurisdiction on the twenty-second day of July, one thousand eight hundred and ninety-five, or any right theretofore adjudicated upon in an action or proceeding in any such court; or
- (b) sectional plan number seven of the city of Winnipeg, or any road, trail, road allowance, highway, or great highway shown on that plan, or any original trail, road allowance, highway or great highway within the area shown thereon. R.S., c. 99, s. 20.

PART III.

THE QUIETING OF TITLES.

Grants
confirmed.

19. If required by the owner, any grant of an estate in land in the Province by the Hudson's Bay Company, up to the eighth day of March, one thousand eight hundred and sixty-nine, shall, if such grant is of an estate less than freehold, be converted by grant from the Crown into an estate in freehold, and, if the grant is of an estate in freehold, it shall be in like manner confirmed. R.S., c. 99, s. 21.

Persons in
possession.

Entitled to
grant.

Time for
claims
limited.

20. Every person who satisfactorily establishes that he, by himself or his servant, tenant or agent, was, or, that those through whom he claims, by themselves, their servants, tenants or agents, were in undisturbed occupancy and in actual peaceable possession of any lands within the Province, on the fifteenth day of July, one thousand eight hundred and seventy, and who made application for letters patent therefor before the first day of May, one thousand eight hundred and eighty-six, shall be entitled to receive such letters patent granting the said land absolutely to him in fee simple: Provided that any such claim to a grant from the Crown is barred as fully and effectually as if it had not been made, if the claimant in respect thereof did not establish his claim before the first day of November, one thousand eight hundred and eighty-six, or, if the claim had not before the last mentioned date been referred to the Commissioners under the following provisions of this Part. R.S., c. 99, s. 22.

21. The Governor in Council may, from time to time, issue a commission under the Great Seal, to such person or persons as he sees fit, empowering him or them, or a majority of them, to investigate such cases as are referred to them by the Minister in respect of

Commission may be appointed to consider certain cases.

- (a) all such cases as arise under the provisions of this Act respecting grants made by the Hudson's Bay Company;
- (b) all cases of adverse or conflicting claims between different persons to lands mentioned in the last preceding section, in respect of which also it has been previously established to the satisfaction of the Minister that there has been undisturbed occupancy, as required in the said section;

and to report the evidence in respect of such claims, and who is the person to whom, in their opinion, the patent ought to issue for the lands to which the claims respectively relate. R.S., c. 99, s. 23.

22. The commissioners may, from time to time, make and establish such rules and forms, with regard to any proceedings to be had before them, and to such notices, papers and other documents as are required in the conduct of such proceedings, as to them appear expedient for the better attainment of the purposes of justice. R.S., c. 99, s. 24.

Rules and forms may be prescribed.

23. The sittings of the commissioners shall be held at the place of the sittings of the county court in each county court division of the Province, and the time and place of such sittings, together with a list of claims to be heard before them, shall be advertised by the commissioners, for a period of three months, in some newspaper in the Province, and they shall give such other notice of the time and place of such sitting as will best tend to inform persons interested in the same. R.S., c. 99, s. 25.

Sittings of the commissioners.

24. A list of all lands to which this Part applies, or is believed to apply, shall, from time to time, as is necessary, be prepared by the Surveyor General of Dominion lands; and such list shall specify the name or names of the person or persons in possession, together with the number of the section, part of section, range and number of township of which the land consists or forms part, or some other adequate description thereof, and of the township or place in which the same lies.

List to be prepared.

What it shall specify.

2. Copies of such list shall be put up in some conspicuous place in the office of each of the county courts of the Province, and in the office of the registrar of each registration and land titles district in the Province, during at least three months before the claim comes to be heard before the commissioners.

To be posted up.

3. No claims shall be heard by the commissioners unless a certificate of compliance with the provisions of this section from the clerk of such court and from such registrar, is produced to the commissioners.

Certificate of compliance.

4. For each such certificate the clerk of the county court and such registrar may each demand and receive the sum of fifty cents. R.S., c. 99, s. 26.

Fee

Preliminary proceedings.	25. The commissioners shall not receive or proceed upon any claim until the person, or some one of the persons, by whom or on whose behalf the claim is made, has made and produced before the commissioners an affidavit or affirmation in writing, signed by him, that to the best of his knowledge and belief the claim is well founded, that he is not aware of any adverse claims, and that there is no other person in possession; or if he is aware of any adverse claim, or that there is any other person in possession, that he has, at least one month before the making of such affidavit or affirmation, caused to be served upon the person making, having, or supposed to have such adverse claim, or who is in possession as aforesaid, a notice in writing of his claim and of his intention to bring the claim before the commissioners at the time appointed by them for hearing the claims of the respective parties.
Affidavit.	
Notice.	
Copy.	
	2. A copy of such notice shall be affixed to the affidavit or affirmation. R.S., c. 99, s. 27.
How claim may be preferred.	26. The claimant or the heir, devisee or assignee of any claimant, may bring any such adverse or conflicting claim before the commissioners, either personally or by agent or attorney, and produce before the commissioners all such documents, proofs and evidence as he has to advance in support of such claim.
Evidence may be <i>viva voce</i> or written.	2. Such evidence may be given <i>viva voce</i> before the commissioners, or by written affidavits or affirmations, sworn or affirmed before any one entitled to administer an oath or affirmation in the place where the same is sworn or affirmed.
Certain documents to be evidence.	3. All certificates of the Hudson's Bay Company, or of any chief factor of the Hudson's Bay Company, or of the clerk of the executive council of the Province, or copies certified by them respectively of documents in their custody, shall be received in evidence before the commissioners. R.S., c. 99, s. 28.
Adjournment of proceedings.	27. The commissioners may defer, delay or adjourn the proceedings on any claim brought before them, and may give such further or enlarged time for the production of evidence, or for any other purpose relative to such claim, and for the decision thereon, as they deem expedient for the attainment of the ends of justice. R.S., c. 99, s. 29.
Decision, how arrived at.	28. The commissioners shall be guided in their proceedings and report by the justice and equity of the case, without regard to legal forms or to the strict letter of the law, or legal rules of evidence.
Effect of decision.	2. The commissioners shall report their decision to the Minister, who may, if he thinks fit, thereupon cause letters patent to issue, granting the lands in question to the person who has been reported by the commissioners to be entitled to the lands; or otherwise, in his discretion, may submit the decision for the consideration and approval of the Governor in Council. R.S., c. 99, s. 30.
Witnesses may be summoned.	29. The commissioners may summon before them, by summons under the hand of any one of them, the claimant or claimants, or any person interested in the case, or any

other person whom they deem it expedient to examine as a witness, or whom they have reason to believe to be in possession of any document by the production of which the ends of justice may be better attained; and may require such claimant or person or such witness, to submit to such oral examination upon oath, or to answer on oath and to sign his answers to interrogatories or cross interrogatories in writing, or to produce such books, papers or documents in his possession, as to the commissioners appears requisite. R.S., c. 99, s. 31.

And
required
to give
evidence.

30. The commissioners may cause such interrogatories or cross interrogatories as they deem requisite to be served upon and answered by any such claimant, person or witness, or any witness whose deposition is produced in evidence before them; and may cause commissions to be issued for the examination of any witness not resident in Manitoba, and for requiring such witness to produce such books, papers or other documents as he has in his possession; and may, in their discretion, delay the proceedings in the case until such evidence and answers have been adduced and given, and returned with the commission. R.S., c. 99, s. 32.

Interroga-
tories.

Commis-
sions to
examine
witnesses
abroad.

31. The commissioners shall have the same power to enforce the attendance of witnesses, and to compel them to give evidence, as is vested in any court of law in civil cases; but no person or witness shall be compelled to answer any question that he would not be compelled to answer in a court of law in a civil case. R.S., c. 99, s. 33.

Attendance
may be
enforced.

32. No letters patent shall issue on any decision and report of the commissioners until after the expiration of three months from the time when such report was transmitted to and marked as received by the Minister. R.S., c. 99, s. 34.

When
letters
patent may
issue.

33. If, before the expiration of such three months, the commissioners, or a quorum or majority of them, find reason to believe that such decision and report were obtained by surprise or erroneously made in any respect, and that justice requires that the issuing of the letters patent should be stayed, the commissioners, or a majority of them, although it is not then the regular period of their sitting, may report accordingly to the Minister, and the issuing of the letters patent shall thereupon be stayed until the commissioners again report upon the case; and the commissioners may re-hear the case, or admit any new claim, and may receive or insist upon any new evidence, as to them appears expedient to enable them to do justice in the case; and they may thereafter decide and report thereon as if no prior report had been made, and with like effect. R.S., c. 99, s. 35.

Re-hearing.

34. Nothing in this Part contained shall limit the right of the Minister to investigate, or cause to be otherwise investigated than as hereinbefore mentioned, such adverse or conflicting claims as aforesaid, and to cause letters patent to issue therefor to the person appearing to him to be entitled thereto. R.S., c. 99, s. 36.

Right to
any other
procedure
not
affected.

THE ALBERTA ACT.⁽¹⁴⁶⁾

4-5 EDWARD VII, CHAPTER 3.

An Act to establish and provide for the Government of the Province of Alberta.

[Assented to 20th July, 1905.]

Preamble.

WHEREAS in and by the British North America Act, 1871, being chapter 28 of the Acts of the Parliament of the United Kingdom passed in the session thereof held in the 34th and 35th years of the reign of Her late Majesty Queen Victoria, it is enacted that the Parliament of Canada may from time to time establish new provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any province thereof, and may, at the time of such establishment, make provision for the constitution and administration of any such province, and for the passing of laws for the peace, order and good government of such province, and for its representation in the said Parliament of Canada;

And whereas it is expedient to establish as a province the territory hereinafter described, and to make provision for the government thereof and the representation thereof in the Parliament of Canada: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title.

1. This Act may be cited as the Alberta Act.⁽¹⁴⁷⁾

Province of
Alberta
formed; its
boundaries.

2. The territory comprised within the following boundaries, that is to say,—commencing at the intersection of the international boundary dividing Canada from the United States of America by the fourth meridian in the system of Dominion land surveys; thence westerly along the said international boundary to the eastern boundary of the province of British Columbia; thence northerly along the said eastern boundary of the province of British Columbia to the northeast corner of the said province; thence easterly along the parallel of the sixtieth degree of north latitude to the fourth meridian in the system of Dominion lands surveys as the same may be hereafter defined in accordance with the said system; thence southerly along the said fourth meridian to the point of commencement,—is hereby established as a province of the Dominion of Canada, to be called and known as the province of Alberta.⁽¹⁴⁸⁾

⁽¹⁴⁶⁾ This is the Constitutional Act of Alberta. Alberta like Manitoba and Saskatchewan was carved out of Rupert's Land and the Northwest Territories. The provisions in this Act are similar to those in the Orders in Council. Alberta, through this Act is made subject to the provisions of the B.N.A. Act, 1867, which applies to it as if it had been one of the original provinces. For "The North-West Territories Act," chapter 50 of the Revised Statutes of Canada, 1886, as amended up to the first day of September, 1905, the date of the coming into force of the Alberta Act, see Revised Statutes of Alberta, 1922, Vol. IV, p. 2849.

⁽¹⁴⁷⁾ This Act has not been consolidated or repealed by the Statute Revisions of 1906 or 1927.

⁽¹⁴⁸⁾ See Alberta-British Columbia Boundary Act, 1932, c. 5 (Canada) and also The Alberta British Columbia Boundary Act, chapter 6 of the statutes of 1931, of Alberta, and The Alberta-Saskatchewan Boundary Act, chapter 96 of the statutes of 1939 of Alberta.

3. The provisions of the British North America Acts, 1867 to 1886, shall apply to the province of Alberta in the same way and to the like extent as they apply to the provinces heretofore comprised in the Dominion, as if the said province of Alberta had been one of the provinces originally united, except in so far as varied by this Act and except such provisions as are in terms made, or by reasonable intendment, may be held to be specially applicable to or only to affect one or more and not the whole of the said provinces.

B.N.A. Acts,
1867 to 1886,
to apply.

4. The said province shall be represented in the Senate of Canada by four members: Provided that such representation may, after the completion of the next decennial census, be from time to time increased to six by the Parliament of Canada.⁽¹⁴⁹⁾

Representa-
tion in the
Senate.

5. The said province and the province of Saskatchewan shall, until the termination of the Parliament of Canada existing at the time of the first readjustment hereinafter provided for, continue to be represented in the House of Commons as provided by chapter 60 of the statutes of 1903, each of the electoral districts defined in that part of the schedule to the said Act which relates to the Northwest Territories, whether such district is wholly in one of the said provinces, or partly in one and partly in the other of them, being represented by one member.⁽¹⁵⁰⁾

Representa-
tion in the
House of
Commons.

6. Upon the completion of the next quinquennial census for the said province, the representation thereof shall forthwith be readjusted by the Parliament of Canada in such manner that there shall be assigned to the said province such a number of members as will bear the same proportion to the number of its population ascertained at such quinquennial census as the number sixty-five bears to the number of the population of Quebec as ascertained at the then last decennial census; and in the computation of the number of members for the said province a fractional part not exceeding one-half of the whole number requisite for entitling the province to a member shall be disregarded, and a fractional part exceeding one-half of that number shall be deemed equivalent to the whole number, and such readjustment shall take effect upon the termination of the Parliament then existing.

Readjust-
ment after
next quin-
quennial
census.

2. The representation of the said province shall thereafter be readjusted from time to time according to the provisions of section 51 of the British North America Act, 1867.⁽¹⁵¹⁾

Subsequent
readjust-
ments.

7. Until the Parliament of Canada otherwise provides, the qualifications of voters for the election of members of the House of Commons and the proceedings at and in connection with elections of such members shall, *mutatis mutandis*, be those prescribed by law at the time this Act comes into force with respect of such elections in the Northwest Territories.

Election of
members
House of
Commons.

⁽¹⁴⁹⁾ Alberta, like the three other western provinces, has now six senators. See *ante*, s. 1 of The British North America Act, 1915. [5-6 George V, chapter 45.]

⁽¹⁵⁰⁾ According to The Representation Act, 1933 (which is unchanged so far as Alberta is concerned by the census of 1941) the representation of Alberta is fixed at seventeen.

⁽¹⁵¹⁾ Representation in the House of Commons is governed by section 51 of the British North America Act, 1867. See also section 51A as amended by the British North America Act, 1915.

Executive
Council.

8. The Executive Council of the said province shall be composed of such persons, under such designations, as the Lieutenant-Governor from time to time thinks fit.

Seat of Gov-
ernment.

9. Unless and until the Lieutenant-Governor in Council of the said province otherwise directs, by proclamation under the Great Seal, the seat of government of the said province shall be at Edmonton.

Powers of
Lieutenant-
Governor
and Council.

10. All powers, authorities and functions which under any law were before the coming into force of this Act vested in or exercisable by the Lieutenant-Governor of the Northwest Territories, with the advice, or with the advice and consent, of the Executive Council thereof, or in conjunction with that Council or with any member or members thereof, or by the said Lieutenant-Governor individually, shall, so far as they are capable of being exercised after the coming into force of this Act in relation to the government of the said province, be vested in and shall or may be exercised by the Lieutenant-Governor of the said province, with the advice or with the advice and consent of, or in conjunction with, the Executive Council of the said province or any member or members thereof, or by the Lieutenant-Governor individually, as the case requires, subject nevertheless to be abolished or altered by the Legislature of the said province.

Great Seal.

11. The Lieutenant-Governor in Council shall, as soon as may be after this Act comes into force, adopt and provide a Great Seal of the said province, and may, from time to time, change such seal.

Legislature.

12. There shall be a Legislature for the said province consisting of the Lieutenant-Governor and one House to be styled the Legislative Assembly of Alberta.

Legislative
Assembly.

13. Until the said Legislature otherwise provides, the Legislative Assembly shall be composed of twenty-five members, to be elected to represent the electoral divisions defined in the schedule to this Act.⁽¹⁵²⁾

Election of
members of
Assembly.

14. Until the said Legislature otherwise determines, all the provisions of the law with regard to the constitution of the Legislative Assembly of the Northwest Territories and the election of members thereof shall apply, *mutatis mutandis*, to the Legislative Assembly of the said province and the elections of members thereof respectively.⁽¹⁵³⁾

⁽¹⁵²⁾ By section 2 of The Legislative Assembly Act, chapter 3 of the Revised Statutes of Alberta, 1922, the Legislative Assembly was declared to be composed of 61 members. This section was amended by 1924, c. 35; 1930, c. 14 and 1939, c. 94. The Alberta Legislative Assembly now consists of 49 Constituencies and 57 members. Each electoral division returned one member except cities of Edmonton and Calgary which return 5 members each.

⁽¹⁵³⁾ The qualifications of voters are now fixed by The Alberta Election Act (c. 34 of the statutes of Alberta, 1924, as amended in 1925; 1934 and 1939).

15. The writs for the election of the members of the first Legislative Assembly of the said province shall be issued by the Lieutenant-Governor and made returnable within six months after this Act comes into force.

Writs for
first election.

16. All laws and all orders and regulations made thereunder, so far as they are not inconsistent with anything contained in this Act, or as to which this Act contains no provision intended as a substitute therefor, and all courts of civil and criminal jurisdiction, and all commissions, powers, authorities and functions, and all officers and functionaries, judicial, administrative and ministerial, existing immediately before the coming into force of this Act in the territory hereby established as the province of Alberta, shall continue in the said province as if this Act and The Saskatchewan Act had not been passed; subject, nevertheless, except with respect to such as are enacted by or existing under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland, to be repealed, abolished or altered by the Parliament of Canada, or by the Legislature of the said province, according to the authority of the Parliament, or of the said Legislature: Provided that all powers, authorities and functions which, under any law, order or regulation were, before the coming into force of this Act, vested in or exercisable by any public officer or functionary of the Northwest Territories shall be vested in and exercisable in and for the said province by like public officers and functionaries of the said province when appointed by competent authority.

Laws, courts
and officers
continued.

Proviso.

2. The Legislature of the province may, for all purposes affecting or extending to the said province, abolish the Supreme Court of the Northwest Territories, and the offices, both judicial and ministerial, thereof, and the jurisdiction, powers and authority belonging or incident to the said court: Provided that, if, upon such abolition, the Legislature constitutes a superior court of criminal jurisdiction, the procedure in criminal matters then obtaining in respect of the Supreme Court of the Northwest Territories shall, until otherwise provided by competent authority, continue to apply to such superior court, and that the Governor in Council may at any time and from time to time declare all or any part of such procedure to be inapplicable to such superior court.

Province
may abolish
Supreme
Court of
N.W.T.

Proviso.

3. All societies or associations incorporated by or under the authority of the Legislature of the Northwest Territories existing at the time of the coming into force of this Act which include within their objects the regulation of the practice of or the right to practise any profession or trade in the Northwest Territories, such as the legal or the medical profession, dentistry, pharmaceutical chemistry and the like, shall continue, subject, however, to be dissolved and abolished by order of the Governor in Council, and each of such societies shall have power to arrange for and effect the payment of its debts and liabilities, and the division, disposition or transfer of its property.

As to
certain
corporations
in N.W.T.

4. Every joint-stock company lawfully incorporated by or under the authority of any ordinance of the Northwest Territories shall be subject to the legislative authority of the province of Alberta if—

As to joint-
stock com-
panies.

- (a) the head office or the registered office of such company is at the time of the coming into force of this Act situate in the province of Alberta; and
- (b) by the powers and objects of such company are such as might be conferred by the Legislature of the said province and not expressly authorized to be executed in any part of the Northwest Territories beyond the limits of the said province.⁽¹⁵⁴⁾

Education.

17. Section 93 of The British North America Act, 1867, shall apply to the said province, with the substitution for paragraph (1) of the said section 93, of the following paragraph:—

“1. Nothing in any such law shall prejudicially affect any right or privilege with respect to separate schools which any class of persons have at the date of the passing of this Act, under the terms of chapters 29 and 30 of the Ordinances of the Northwest Territories, passed in the year 1901, or with respect to religious instruction in any public or separate school as provided for in the said ordinances.”

2. In the appropriation by the Legislature or distribution by the Government of the province of any moneys for the support of schools organized and carried on in accordance with the said chapter 29 or any Act passed in amendment thereof, or in substitution therefor, there shall be no discrimination against schools of any class described in the said chapter 29.

3. Where the expression “by law” is employed in paragraph 3 of the said section 93, it shall be held to mean the law as set out in the said chapters 29 and 30, and where the expression “at the Union” is employed, in the said paragraph 3, it shall be held to mean the date at which this Act comes into force.

Subsidy to province.

18. The following amounts shall be allowed as an annual subsidy to the province of Alberta and shall be paid by the Government of Canada, by half-yearly instalments in advance, to the said province, that is to say:—

For government.

- (a) for the support of the Government and Legislature, fifty thousand dollars;

In proportion to population.

- (b) on an estimated population of two hundred and fifty thousand, at eighty cents per head two hundred thousand dollars, subject to be increased as hereinafter mentioned, that is to say:—a census of the said province shall be taken in every fifth year, reckoning from the general census of one thousand nine hundred and one, and an approximate estimate of the population shall be made at equal intervals of time between each quinquennial and decennial census; and whenever the population, by any such census or estimate, exceeds

⁽¹⁵⁴⁾ The Dominion statute, 1886, 49 V., c. 25, s. 3, amending the North West Territories Act and reproduced in the above Act, R.S.C. 1886, c. 50, s. 11, put in force in the Territories the laws of England, civil and criminal, as of July 15th, 1870 “so far as the same are applicable to the Territories,” and not repealed, altered or affected by subsequent appropriate legislation and The Alberta Act continued the laws in effect at the time of its establishment. (Board v. Board, 1918, 2 W.W.R. 633, 13 Alt. L.R. 362; 1919, 2 W.W.R. 940, A.C. 95, 88 L.J.P.C. 165).

two hundred and fifty thousand, which shall be the minimum on which the said allowance shall be calculated, the amount of the said allowance shall be increased accordingly, and so on until the population has reached eight hundred thousand souls.⁽¹⁵⁵⁾

19. Inasmuch as the said province is not in debt, it shall be entitled to be paid and to receive from the Government of Canada, by half-yearly payments in advance, an annual sum of four hundred and five thousand three hundred and seventy-five dollars, being the equivalent of interest at the rate of five per cent per annum on the sum of eight million one hundred and seven thousand five hundred dollars.

Annual payment to province.

20. Inasmuch as the said province will not have the public land as a source of revenue, there shall be paid by Canada to the province by half-yearly payments, in advance, an annual sum based upon the population of the province as from time to time ascertained by the quinquennial census thereof, as follows:—

Compensation to province for public lands.

The population of the said province being assumed to be at present two hundred and fifty thousand, the sum payable until such population reaches four hundred thousand, shall be three hundred and seventy-five thousand dollars;

Thereafter, until such population reaches eight hundred thousand, the sum payable shall be five hundred and sixty-two thousand five hundred dollars;

Thereafter, until such population reaches one million two hundred thousand, the sum payable shall be seven hundred and fifty thousand dollars;

And thereafter the sum payable shall be one million one hundred and twenty-five thousand dollars.

2. As an additional allowance in lieu of public lands, there shall be paid by Canada to the province annually by half-yearly payments, in advance, for five years from the time this Act comes into force, to provide for the construction of necessary public buildings, the sum of ninety-three thousand seven hundred and fifty dollars.

Further compensation.

21. All Crown lands, mines and minerals and royalties incident thereto, and the interest of the Crown in the waters within the province under The Northwest Irrigation Act, 1898, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, subject to the provisions of any Act of the Parliament of Canada with respect to road allowances and roads or trails in force immediately before the coming into force of this Act, which shall apply to the said province with the substitution therein of the said province for the Northwest Territories.

Property in lands, etc.

⁽¹⁵⁵⁾ See B.N.A. Act (1907), c. 11, s. 1 and notes to s. 118 of the B.N.A. Act, 1867.

Division of
assets and
liabilities
between
Saskatche-
wan and
Alberta.

Arbitration.

22. All properties and assets of the Northwest Territories shall be divided equally between the said province and the province of Saskatchewan, and the two provinces shall be jointly and equally responsible for all debts and liabilities of the Northwest Territories: Provided that, if any difference arises as to the division and adjustment of such properties, assets, debts and liabilities, such difference shall be referred to the arbitrament of three arbitrators, one of whom shall be chosen by the Lieutenant-Governor in Council of each province, and the third by the Governor in Council. The selection of such arbitrators shall not be made until the Legislatures of the provinces have met, and the arbitrator chosen by Canada shall not be resident of either province.

Rights of
H. B. Co.

23. Nothing in this Act shall in any way prejudice or affect the rights or properties of the Hudson's Bay Company as contained in the conditions under which that company surrendered Rupert's Land to the Crown.

Provision as
to C.P.R.
Co.

24. The powers hereby granted to the said province shall be exercised subject to the provisions of section 16 of the contract set forth in the schedule to chapter 1 of the statutes of 1881, being an Act respecting the Canadian Pacific Railway Company.

Commence-
ment of Act.

25. This Act shall come into force on the first day of September, one thousand nine hundred and five.

SCHEDULE.

(Section 13.)

The province of Alberta shall be divided into twenty-five electoral divisions which shall respectively comprise and consist of the parts and portions of the province hereinafter described.

In the following descriptions where "meridians between ranges" and "boundaries of townships" or "boundaries of sections" are referred to as the boundaries of electoral divisions, these expressions mean the meridians, boundaries of townships or boundaries of sections, as the case may be, in accordance with the Dominion Lands system of surveys, and include the extension thereof in accordance with the said system.

Names and Descriptions of Divisions.

(1) The electoral division of Medicine Hat, bounded as follows:—

Commencing at the intersection of the eastern boundary of the said province of Alberta by the north boundary of the 38th township; thence westerly along the north boundary of the 38th township to the meridian between the 10th and 11th ranges, west of the 4th meridian; thence southerly along the meridian between the 10th and 11th ranges to the southern boundary of the said province of Alberta; thence easterly along

the said southern boundary of the province of Alberta to the south-east corner thereof; thence northerly along the eastern boundary of the said province of Alberta to the point of commencement.

(2) The electoral division of Cardston, bounded as follows:—

Commencing at the southern boundary of the said province of Alberta where it is intersected by the meridian between the 10th and 11th ranges, west of the 4th meridian; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of the 5th township; thence westerly along the north boundary of the 5th township to the St. Mary river; thence along the St. Mary river up stream to the south boundary of the Blood Indian Reserve; thence westerly along the said south boundary of the Blood Indian Reserve to the meridian between the 27th and 28th ranges west of the 4th meridian; thence southerly along the said meridian between the 27th and 28th ranges to the north boundary of the 2nd township; thence westerly along the north boundary of the 2nd townships to the meridian between the 29th and 30th ranges west of the 4th meridian; thence southerly along the said meridian between the 29th and 30th ranges to the southern shore of the Waterton Lakes; thence in a westerly and southerly direction and following the southerly and eastern shores of the said Waterton Lakes to the southern boundary of the said province of Alberta; thence easterly along the said southern boundary of the province of Alberta to the point of commencement.

(3) The electoral division of Lethbridge, bounded as follows:—

Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 5th township; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of the 14th township; thence westerly along the north boundary of the 14th townships to the Bow river; thence along the Bow river up stream to the north boundary of the 19th township; thence westerly along the north boundary of the 19th townships to the meridian between the 22nd and 23rd ranges, west of the 4th meridian; thence southerly along the said meridian between the 22nd and 23rd ranges to the Belly river; thence along the Belly river down stream to the St. Mary river; thence along the St. Mary river up stream to the north boundary of the 5th township; thence easterly along the north boundary of the 5th townships to the point of commencement.

(4) The electoral division of Macleod, bounded as follows:—

Commencing at the south boundary of the Blood Indian Reserve where it is intersected by the St. Mary river; thence along the St. Mary river down stream to the Belly river; thence along the said Belly river up stream to its most northerly intersection with the meridian between the 22nd and 23rd ranges, west of the 4th meridian; thence northerly along the said meridian between the 22nd and 23rd ranges to the north boundary

of the 14th township; thence westerly along the north boundary of the 14th townships to the westerly boundary of the province of Alberta; thence in a southerly direction and along the said western boundary of the province of Alberta to the north boundary of the 11th township; thence easterly along the said north boundary of the 11th township to the 5th meridian; thence southerly along the said 5th meridian to the north boundary of the 10th township; thence easterly along the said north boundary of the 10th township to the meridian between the 29th and 30th ranges, west of the 4th meridian; thence southerly along the said meridian between the 29th and 30th ranges to the north boundary of the 8th township; thence easterly along the said north boundary of the 8th township to the west boundary of the Peigan Indian Reserve; thence southerly along the said west boundary of the Peigan Indian Reserve to the south-west corner of the said Peigan Indian Reserve; thence easterly along the south boundary of the said Peigan Indian Reserve to the south-east corner of the said Reserve; thence in a straight line south-easterly to the north-east corner of section 14 in the 6th township in the 27th range, west of the 4th meridian; thence along the north boundary of section 13 in the said 6th township and in the 27th range to the meridian between the 26th and 27th ranges west of the 4th meridian; thence southerly along the said meridian between the 26th and 27th ranges to the Belly river; thence along the Belly river up stream to the southern boundary of the said Blood Indian Reserve; thence easterly along the said south boundary of the Blood Indian Reserve to the point of commencement.

(5) The electoral division of Pincher Creek, bounded as follows:—

Commencing at the southern boundary of the said province of Alberta, where it is intersected by the eastern shore of the Waterton lakes, thence northerly and easterly and along the said eastern shores and the southern shores of the Waterton lakes to the meridian between the 29th and 30th ranges west of the 4th meridian; thence northerly along the said meridian between the 29th and 30th ranges to the north boundary of the 2nd township; thence easterly along the said north boundary of the 2nd townships to the meridian between the 27th and 28th ranges west of the 4th meridian; thence northerly along the said meridian between the 27th and 28th ranges to the south boundary of the Blood Indian Reserve; thence westerly along the said south boundary of the Blood Indian Reserve to the Belly river; thence along the said Belly River down stream to the meridian between the 26th and 27th ranges west of the 4th meridian; thence northerly along the said meridian between the 26th and 27th ranges to the northeast corner of section 13 in the 6th township in the said 27th range; thence westerly along the north boundary of the said section 13 to the northeast corner of section 14 in the said 6th township in the 27th range; thence in a straight line northwesterly to the southeast corner of the Peigan Indian Reserve; thence westerly along the south boundary of the said Peigan Indian Reserve to the southwest corner of the said Indian Reserve; to the north boundary of the 8th township; thence westerly

along the said north boundary of the 8th townships to the meridian between the 29th and 30th ranges west of the 4th meridian; thence northerly along the said meridian between the 29th and 30th ranges to the north boundary of the 10th township; thence westerly along the said north boundary of the 10th township to the 5th meridian; thence northerly along the said 5th meridian to the north boundary of the 11th township; thence westerly along the said north boundary of the 11th townships to the western boundary of the said province of Alberta; thence in a southerly direction and along the said western boundary of the province of Alberta to the southern boundary of the said province of Alberta; thence easterly along the said southern boundary of the province of Alberta to the point of commencement.

(6) The electoral district of Gleichen, bounded as follows:—

Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the northern boundary of the 14th township; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of the 28th township; thence westerly along the said north boundary of the 28th townships to the meridian between the 2nd and 3rd ranges, west of the 5th meridian; thence southerly along the said meridian between the 2nd and 3rd ranges, to north boundary of the 22nd township; thence easterly along the said north boundary of the 22nd townships to the Bow river; thence along the said Bow river down stream to the north boundary of the 14th township; thence easterly along the said north boundary of the 14th townships to the point of commencement;—excepting and reserving out of the said electoral division the city of Calgary, as incorporated by ordinances of the Northwest Territories.

(7) The electoral division of Calgary City, comprising the city of Calgary as incorporated by ordinance of the Northwest Territories.

(8) The electoral division of Rosebud, bounded as follows:—

Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 28th township; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of the 33rd township; thence westerly along the said north boundary of the 33rd townships to the western boundary of the province of Alberta; thence in a southerly direction and along the said western boundary of the province of Alberta to the north boundary of the 28th township; thence easterly along the said north boundary of the 28th townships to the point of commencement.

(9) The electoral division of High River, bounded as follows:—

Commencing at the meridian between the 22nd and 23rd ranges, west of the 4th meridian, where it is intersected by the north boundary of the 14th township; thence northerly along the said meridian between the 22nd and 23rd ranges to the

north boundary of the 19th township; thence easterly along the said north boundary of the 19th townships to the Bow river; thence along the said Bow river up stream to the north boundary of the 22nd township; thence westerly along the said north boundary of the 22nd townships to the western boundary of the province of Alberta; thence in a southerly direction and along the said western boundary of the province of Alberta to the north boundary of the 14th township; thence easterly along the said north boundary of the 14th townships to the point of commencement.

(10) The electoral division of Banff, bounded as follows:—

Commencing at the meridian between the 24th and 25th ranges, west of the 5th meridian, where it is intersected by the north boundary of the 22nd township; thence northerly along the said meridian between the 2nd and 3rd ranges to the north boundary of the 28th township; thence westerly along the said north boundary of the 28th township to the western boundary of the province of Alberta; thence in a southerly direction and along the said western boundary of the province of Alberta to the north boundary of the 22nd township; thence easterly along the said north boundary of the 22nd township to the point of commencement.

(11) The electoral division of Innisfail, bounded as follows:—

Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 33rd township; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of section twenty-four in the 36th township; thence westerly along the section line which bounds on the north the section comprising the most southerly two-thirds of the 36th townships to the Red Deer river, in the 28th range, west of the 4th meridian; thence along the said Red Deer river down stream to the north boundary of section twenty-two, in the 37th township; thence westerly along the section line which bounds on the north the sections comprising the most southerly two-thirds of the 37th township to the western boundary of the province of Alberta; thence in a southerly direction and along the said western boundary of the province of Alberta to the north boundary of the 33rd township; thence easterly along the north boundary of the 33rd township to the point of commencement.

(12) The electoral division of Red Deer, bounded as follows:—

Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the north boundary of section 24, in the 36th township; thence northerly along the said meridian between the 10th and 11th ranges to the said north boundary of the 38th township; thence westerly along the said north boundary of the 38th township to where the said north boundary of the 38th townships is intersected by the Red Deer river in the 26th range, west of the 4th meridian; thence along the said Red Deer river up stream to the Blindman river; thence along the said Blindman river up stream to the north boundary of the 39th township;

thence westerly along the said north boundary of the 39th townships to the North Saskatchewan river; thence along the North Saskatchewan river up stream to the section line which bounds on the north the sections comprising the most southerly two-thirds of the 37th township; thence easterly along the said section line which bounds on the north the sections comprising the most southerly two-thirds of the 37th township to the Red Deer river; thence along the Red Deer river up stream to the north boundary of section twenty, in the 36th township; thence easterly along the section line which bounds on the north the sections comprising the most southerly two-thirds of the said 36th townships to the point of commencement.

(13) The electoral division of Vermilion, bounded as follows:—

Commencing at the eastern boundary of the province of Alberta where it is intersected by the north boundary of the 38th township; thence northerly along the said eastern boundary of the province of Alberta to the North Saskatchewan river; thence along the North Saskatchewan river up stream to the meridian between the 10th and 11th ranges, west of the 4th meridian; thence southerly along the said meridian between the 10th and 11th ranges to the north boundary of the 54th township; thence westerly along the said north boundary of the 54th township to the meridian between the 19th and 20th ranges, west of the 4th meridian; thence southerly along the said meridian between the 19th and 20th ranges to the north boundary of section twenty-four, in the 47th township; thence easterly along the section line which bounds on the north the sections comprising the most southerly two-thirds of the 47th township to the meridian between the 10th and 11th ranges, west of the 4th meridian; thence southerly along the said meridian between the 10th and 11th ranges to the north boundary of the 38th township; thence easterly along the said north boundary of the 38th township to the point of commencement.

(14) The electoral division of Lacombe, bounded as follows:—

Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 38th township; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of the 41st township; thence westerly along the said north boundary of the 41st townships to the North Saskatchewan river; thence along the said North Saskatchewan river up stream to the north boundary of the 39th township; thence easterly along the said north boundary of the 39th townships to the Blindman river; thence along the said Blindman river down stream to the Red Deer river; thence along the said Red Deer river down stream to the north boundary of the 38th township; thence easterly along the said north boundary of the 38th township to the point of commencement.

(15) The electoral division of Ponoka, bounded as follows:—

Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 41st township; thence northerly along

the said meridian between the 10th and 11th ranges to the north boundary of the 44th township; thence westerly along the north boundary of the 44th townships to the North Saskatchewan river; thence along the said North Saskatchewan river up stream to the north boundary of the 41st township; thence easterly along the said north boundary of the 41st townships to the point of commencement.

(16) The electoral division of Wetaskiwin, bounded as follows:—

Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 44th township; thence northerly along the said meridian between the 10th and 11th ranges to the section line which bounds on the north the sections comprising the most southerly two-thirds of the 47th township; thence westerly along the said section line which bounds on the north the sections comprising the most southerly two-thirds of the 47th townships to the North Saskatchewan river; thence along the said North Saskatchewan river up stream to the north boundary of the 44th township; thence easterly along the said north boundary of the 44th townships to the point of commencement.

(17) The electoral division of Leduc, bounded as follows:—

Commencing at the meridian between the 19th and 20th ranges, west of the 4th meridian, where it is intersected by the section line which bounds on the north the sections comprising the most southerly two-thirds of the 47th townships; thence northerly along the said meridian between the 19th and 20th ranges to the north boundary of the 50th township; thence westerly along the said north boundary of the 50th townships to where the said north boundary of the 50th townships first intersects the North Saskatchewan river; thence along the North Saskatchewan river up stream to the section line which bounds on the north the sections comprising the most southerly two-thirds of the 47th township; thence easterly along the said section line which bounds on the north the sections comprising the most southerly two-thirds of the 47th townships to the point of commencement.

(18) The electoral division of Strathcona, bounded as follows:—

Commencing at the meridian between the 19th and 20th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 50th township; thence northerly along the said meridian between the 19th and 20th ranges to the north boundary of the 53rd township; thence westerly along the said north boundary of the 53rd townships to the North Saskatchewan river; thence along the said North Saskatchewan river up stream to the north boundary of the 50th township; thence easterly along the said north boundary of the 50th townships to the point of commencement.

(19) The electoral division of Stonyplain, bounded as follows:—

Commencing at the meridian between the 24th and 25th ranges, west of the 4th meridian, where it is intersected by the

north boundary of the 53rd township; thence westerly along the said north boundary of the 53rd township to the rear line of lots fronting on the east side of the Sturgeon river in the Saint Albert settlement; thence in a southerly and westerly direction and along the said rear line to Big lake; thence in a westerly direction and along the southerly, westerly and northerly shores of Big lake to the southwest corner of lot D in the Saint Albert settlement, thence westerly and along the southerly limits of lots E, F, G, H and I in the said Saint Albert settlement to the southeast corner on the Indian Reserve Chief Michel Calahoo; thence westerly along the south boundary of the said Indian Reserve to the south-west corner thereof; thence northerly along the west boundary of the said Indian Reserve to the north boundary of the 54th township; thence westerly along the said north boundary of the 54th townships to the 5th meridian; thence northerly along the said 5th meridian to the south boundary of the Indian Reserve Chief Alexander; thence westerly along the south boundary of the Indian Reserve Chief Alexander to the south-west corner of the said reserve; thence northerly along the west boundary of the said Reserve Chief Alexander to the north boundary of the 55th township; thence westerly along the north boundary of the 55th townships to the western boundary of the province of Alberta; thence in a southerly direction and along the said western boundary of the province of Alberta to the section line which forms the north boundary of the sections comprising the most southerly two-thirds of the 37th township; thence easterly along the said section line which forms the north boundary of the sections comprising the most southerly two-thirds of the 37th townships to the North Saskatchewan river; thence along the said North Saskatchewan river down stream to its most northerly intersection with the meridian between the 24th and 25th ranges west of the 4th meridian; thence northerly along the said meridian between the 24th and 25th ranges to the point of commencement.

(20) The electoral division of Edmonton City, comprising the city of Edmonton as incorporated by ordinance of the Northwest Territories.

(21) The electoral division of Victoria, bounded as follows:—

Commencing at the 4th meridian where it is intersected by the North Saskatchewan river; thence northerly along the said 4th meridian to the north boundary of the 70th township; thence westerly along the said north boundary of the 70th townships to the meridian between the 10th and 11th ranges west of the 4th meridian; thence southerly along the said meridian between the 10th and 11th ranges to the north boundary of the 58th township; thence westerly along the said north boundary of the 58th townships to the North Saskatchewan river; thence along the said North Saskatchewan river up stream to the north boundary of the 53rd township; thence easterly along the said north boundary of the 53rd township to the meridian between the 19th and 20th ranges west of the 4th meridian; thence northerly along the said meridian between the 19th and 20th ranges to the north boundary of the 54th

township; thence easterly along the said north boundary of the 54th townships to the meridian between the 10th and 11th ranges, west of the 4th meridian; thence northerly along the said meridian between the 10th and 11th ranges to the North Saskatchewan river; thence along the said North Saskatchewan river down stream to the point of commencement.

(22) The electoral division of Sturgeon, bounded as follows:—

Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 58th township; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of the 70th township; thence westerly along the said north boundary of the 70th townships to the meridian between the 24th and 25th ranges, west of the 4th meridian; thence southerly along the said meridian between the 24th and 25th ranges to the North Saskatchewan river; thence along the said North Saskatchewan river down stream to the north boundary of the 58th township; thence easterly along the said north boundary of the 58th townships to the point of commencement. Excepting and reserving out of the said electoral division the city of Edmonton as incorporated by ordinance of the Northwest Territories.

(23) The electoral division of Saint Albert, bounded as follows:—

Commencing at the meridian between the 24th and 25th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 53rd township; thence northerly along the said meridian between the 24th and 25th ranges west of the 4th meridian to the north boundary of the 70th township; thence westerly along the said north boundary of the 70th townships to the western boundary of the province of Alberta; thence in a southerly direction and along the said western boundary of the province of Alberta to the north boundary of the 55th township; thence easterly along the said north boundary of the 55th township to the Indian Reserve Chief Alexander; thence southerly along the western boundary of the said Indian Reserve Chief Alexander to the south-west corner of the said reserve; thence easterly along the south boundary of the said Indian Reserve Chief Alexander to the 5th meridian; thence southerly along the said 5th meridian to the north boundary of the 54th township; thence easterly along the said north boundary of the 54th township to the west boundary of the Indian Reserve Chief Michel Calahoo; thence southerly along the west boundary of the said Indian Reserve Chief Michel Calahoo to the south-west corner thereof; thence easterly along the south boundary of the said Indian Reserve Chief Michel Calahoo to the south-east corner thereof; thence in an easterly direction and along the southern limit of lots I, H, G. F, and E, in the Saint Albert settlement to the south-west corner of lot D in the said settlement; thence along the westerly and southerly shores of Big Lake in a westerly, southerly and easterly direction to the rear line of lot 55 in the said Saint Albert settlement; thence in an easterly direction and along the rear line of lots fronting on the east side of the Sturgeon

River in the said Saint Albert settlement to the north boundary of the 53rd township; thence easterly along the north boundary of the 53rd township to the point of commencement.

(24) The electoral division of Peace River, bounded as follows:—

Commencing at the meridian between the 19th and 20th ranges, west of the 5th meridian, where it is intersected by the north boundary of the 70th township; thence northerly along the said meridian between the 19th and 20th ranges to the north boundary of the 80th township; thence easterly along the said north boundary of the 80th townships to the meridian between the 13th and 14th ranges, west of the 5th meridian; thence northerly along the said meridian between the 13th and 14th ranges to the north boundary of the 92nd township; thence easterly along the said north boundary of the 92nd townships to the meridian between the 20th and 21st ranges, west of the 4th meridian; thence northerly along the said meridian between the 20th and 21st ranges to the northern boundary of the province of Alberta; thence westerly along the said northern boundary of the province of Alberta to the north-west corner of the said province; thence in a southerly direction and along the western boundary of the said province of Alberta to the north boundary of the 70th township; thence easterly along the said north boundary of the 70th townships to the point of commencement.

(25) The electoral division of Athabaska, bounded as follows:—

Commencing at the eastern boundary of the province of Alberta where it is intersected by the north boundary of the 70th township; thence northerly along the said eastern boundary of the province of Alberta to the northern boundary of the said province; thence westerly along the said northern boundary of the province of Alberta to the meridian between the 20th and 21st ranges, west of the 4th meridian; thence southerly along the said meridian between the 20th and 21st ranges to the north boundary of the 92nd township; thence westerly along the said north boundary of the 92nd townships to the meridian between the 13th and 14th ranges, west of the 5th meridian; thence southerly along the said meridian between the 13th and 14th ranges, west of the 5th meridian to the north boundary of the 80th township; thence westerly along the said north boundary of the 80th township to the meridian between the 19th and 20th ranges, west of the 5th meridian; thence southerly along the said meridian between the 19th and 20th ranges to the north boundary of the 70th township; thence easterly along the said north boundary of the 70th township to the point of commencement.

THE SASKATCHEWAN ACT. ⁽¹⁵⁶⁾

4-5 EDWARD VII, CHAPTER 42.

An Act to establish and provide for the Government of the Province of Saskatchewan.

[Assented to 20th July, 1905.]

Preamble.

WHEREAS in and by the *British North America Act*, 1871, being chapter 28 of the Acts of the Parliament of the United Kingdom passed in the session thereof held in the 34th and 35th years of the reign of her late Majesty Queen Victoria, it is enacted that the Parliament of Canada may from time to time establish new provinces in any territory forming for the time being part of the Dominion of Canada, but not included in any province thereof, and may, at the time of such establishment, make provision for the constitution and administration of any such province, and for the passing of laws for the peace, order and good government of such province and for its representation in the said Parliament of Canada;

And whereas it is expedient to establish as a province the territory hereinafter described, and to make provisions for the government thereof and the representation thereof in the Parliament of Canada: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title.

1. This Act may be cited as the Saskatchewan Act.⁽⁵⁷⁷⁾

Province of Saskatchewan formed; its boundaries.

2. The territory comprised within the following boundaries, that is to say,—commencing at the intersection of the international boundary dividing Canada from the United States of America by the west boundary of the province of Manitoba, thence northerly along the said west boundary of the province of Manitoba to the northwest corner of the said province of Manitoba; thence continuing northerly along the centre of the road allowance between the twenty-ninth and thirtieth ranges west of the principal meridian in the system of Dominion lands surveys, as the said road allowance may hereafter be defined in accordance with the said system, to the second meridian in the said system of Dominion lands surveys, as the same may hereafter be defined in accordance with the said system; thence northerly along the said second meridian to the sixtieth degree of north latitude; thence westerly along the parallel of the sixtieth degree of north latitude to the fourth

⁽¹⁵⁶⁾ This is the Constitutional Act of Saskatchewan. Saskatchewan like Manitoba and Alberta was carved out of Rupert's Land and the North West Territories. The provisions in this Act are similar to those in the Orders in Council. Saskatchewan, through this Act is made subject to the provisions of the B.N.A. Act, 1867, which applies to it as if it had been one of the original provinces. For "The North West Territories Act," chapter 50 of the Revised Statutes of Canada, 1886, as amended up to the first day of September, 1905, the date of the coming into force of the Saskatchewan Act, see Revised Statutes of Saskatchewan, 1940, Vol. IV, page 4547.

⁽¹⁵⁷⁾ This Act has not been consolidated or repealed by the Statute Revision of 1906 or 1927.

meridian in the said system of Dominion lands surveys, as the same may be hereafter defined in accordance with the said system; thence southerly along the said fourth meridian to the said international boundary dividing Canada from the United States of America; thence easterly along the said international boundary to the point of commencement,—is hereby established as a province of the Dominion of Canada, to be called and known as the province of Saskatchewan.⁽¹⁵⁸⁾

3. The provisions of the *British North America Acts, 1867 to 1886*, shall apply to the province of Saskatchewan in the same way and to the like extent as they apply to the provinces heretofore comprised in the Dominion, as if the said provinces of Saskatchewan had been one of the provinces originally united, except in so far as varied by this Act and except such provisions as are in terms made, or by reasonable intendment may be held to be, specially applicable to or only to affect one or more and not the whole of the said provinces.

B.N.A. Acts,
1867 to 1886,
to apply.

4. The said province shall be represented in the Senate of Canada by four members: Provided that such representation may, after the completion of the next decennial census, be from time to time increased to six by the Parliament of Canada.⁽¹⁵⁹⁾

Representa-
tion in the
Senate.

5. The said province and the province of Alberta shall, until the termination of the Parliament of Canada existing at the time of the first readjustment hereinafter provided for, continue to be represented in the House of Commons as provided by chapter 60 of the statutes of 1903, each of the electoral districts defined in that part of the schedule to the said Act which relates to the Northwest Territories, whether such district is wholly in one of the said provinces, or partly in one and partly in the other of them, being represented by one member.⁽¹⁶⁰⁾

Representa-
tion in the
House of
Commons.

6. Upon the completion of the next quinquennial census for the said province, the representation thereof shall forthwith be readjusted by the Parliament of Canada in such manner that there shall be assigned to the said province such a number of members as will bear the same proportion to the number of its population ascertained at such quinquennial census as the number sixty-five bears to the number of the population of Quebec as ascertained at the then last decennial census; and in the computation of the number of members for the said province a fractional part not exceeding one-half of the whole number requisite for entitling the province to a member shall be disregarded, and a fractional part exceeding one-half of that number shall be deemed equivalent to the whole number, and such readjustment shall take effect upon the termination of the Parliament then existing.

Readjust-
ment after
next quin-
quennial
census.

⁽¹⁵⁸⁾ *Re boundaries: See The Manitoba-Saskatchewan Boundary Act, 1937 (1 George VI, c. 96) and The Alberta-Saskatchewan Boundary Act, 1939 (3 George VI, c. 96) of the statutes of Saskatchewan.*

⁽¹⁵⁹⁾ Saskatchewan, like the three other western provinces, has now six senators. *See ante, section 1 of The British North America Act, 1915 [5-6 George V, chapter 45].*

⁽¹⁶⁰⁾ According to The Representation Act, 1933, the representation of Saskatchewan is fixed at twenty-one. According to the census of 1941, however, the representation should be seventeen. *See The British North America Act, 1943, postponing till after the war the readjustment of the representation in the House of Commons. See British North America Act, 1946.*

Subsequent
readjust-
ments.

2. The representation of the said province shall thereafter be readjusted from time to time according to the provisions of section 51 of The British North America Act, 1867.⁽¹⁶¹⁾

Election of
members of
House of
Commons.

7. Until the Parliament of Canada otherwise provides, the qualifications of voters for the election of members of the House of Commons and the proceedings at and in connection with elections of such members shall, *mutatis mutandis*, be those prescribed by law at the time this Act comes into force with respect to such elections in the Northwest Territories.⁽¹⁶²⁾

Executive
Council.

8. The Executive Council of the said province shall be composed of such persons, under such designations, as the Lieutenant-Governor from time to time thinks fit.

Seat of Gov-
ernment.

9. Unless and until the Lieutenant-Governor in Council of the said province otherwise directs, by proclamation under the Great Seal, the seat of government of the said province shall be at Regina.

Powers of
Lieutenant
Governor
and Council.

10. All powers, authorities and functions which under any law were before the coming into force of this Act vested in or exercisable by the Lieutenant-Governor of the Northwest Territories, with the advice, or with the advice and consent of the Executive Council thereof, or in conjunction with that Council or with any member or members thereof, or by the said Lieutenant-Governor individually, shall, so far as they are capable of being exercised after the coming into force of this Act in relation to the government of the said province, be vested in and shall or may be exercised by the Lieutenant-Governor of the said province, with the advice or with the advice and consent of, or in conjunction with, the Executive Council of the said province or any member or members thereof, or by the Lieutenant-Governor individually, as the case requires, subject nevertheless to be abolished or altered by the Legislature of the said province.

Great Seal.

11. The Lieutenant-Governor in Council shall, as soon as may be after this Act comes into force, adopt and provide a Great Seal of the said province, and may, from time to time change such seal.

Legislature.

12. There shall be a legislature for the said province consisting of the Lieutenant-Governor and one House, to be styled the Legislative Assembly of Saskatchewan.

Legislative
Assembly.

13. Until the said Legislature otherwise provides, the Legislative Assembly shall be composed of twenty-five members,

⁽¹⁶¹⁾ Representation in the House of Commons is governed by section 51 of the British North America Act, 1867. See also section 51A as enacted by the British North America Act, 1915.

⁽¹⁶²⁾ The qualifications of voters are now fixed by The Saskatchewan Election Act, chapter 4 of the Revised Statutes of Saskatchewan, 1940.

to be elected to represent the electoral divisions defined in the schedule to this Act.⁽¹⁶³⁾

14. Until the said Legislature otherwise determines, all the provisions of the law with regard to the constitution of the Legislative Assembly of the Northwest Territories and the election of members thereof shall apply, *mutatis mutandis*, to the Legislative Assembly of the said province and the election of members thereof respectively.

Election of members of Assembly.

15. The writs for the election of the members of the first Legislative Assembly of the said province shall be issued by the Lieutenant-Governor and made returnable within six months after this Act comes into force.

Writs for first election.

16. All laws and all orders and regulations made thereunder, so far as they are not inconsistent with anything contained in this Act, or as to which this Act contains no provision intended as a substitute therefor, and all courts of civil and criminal jurisdiction, and all commissions, powers, authorities and functions, and all officers and functionaries, judicial, administrative and ministerial, existing immediately before the coming into force of this Act in the territory hereby established as the province of Saskatchewan, shall continue in the said province as if this Act and The Alberta Act had not been passed; subject, nevertheless, except with respect to such as are enacted by or existing under Acts of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, to be repealed, abolished or altered by the Parliament of Canada, or by the Legislature of the said province, according to the authority of the Parliament or of the said Legislature: Provided that all powers, authorities and functions which under any law, order or regulation were, before the coming into force of this Act, vested in or exercisable by any public officer or functionary of the Northwest Territories shall be vested in and exercisable in and for the said province by like public officers and functionaries of the said province when appointed by competent authority.

Laws, courts and officers continued.

Proviso.

2. The Legislature of the province may, for all purposes affecting or extending to the said province, abolish the Supreme Court of the Northwest Territories, and the offices, both judicial and ministerial thereof, and the jurisdiction, powers and authority belonging or incident to the said court: Provided that, if upon such abolition, the Legislature constitutes a superior court of criminal jurisdiction, the procedure in criminal matters then obtaining in respect of the Supreme Court of the Northwest Territories shall, until otherwise provided by competent authority, continue to apply to such superior court, and that the Governor in Council may at any time and from time to time declare all or any part of such procedure to be inapplicable to such superior court.

Province may abolish Supreme Court of N.W.T.

Proviso.

⁽¹⁶³⁾ By section 2 of The Legislative Assembly Act, chapter 3 of the Revised Statutes of Saskatchewan, 1940, the Legislative Assembly is declared to be composed of 52 members. It is in 1938 that the number of electoral divisions was decreased from 52 to 49 and the representation reduced from 55 to 52 members (Regina, Saskatoon and Moose Jaw returning two members each).

As to certain
corporations
in N.W.T.

3. All societies or associations incorporated by or under the authority of the Legislature of the Northwest Territories existing at the time of the coming into force of this Act which include within their objects the regulation of the practice of, or the right to practice, any profession or trade in the Northwest Territories, such as the legal or the medical profession, dentistry, pharmaceutical chemistry and the like, shall continue, subject, however, to be dissolved and abolished by order of the Governor in Council, and each of such societies shall have power to arrange for and effect the payment of its debts and liabilities, and the division, disposition or transfer of its property.

As to joint-
stock com-
panies.

4. Every joint-stock company lawfully incorporated by or under the authority of any ordinance of the Northwest Territories shall be subject to the legislative authority of the province of Saskatchewan if

- (a) the head office or the registered office of such company is at the time of the coming into force of this Act situate in the province of Saskatchewan; and
- (b) the powers and objects of such company are such as might be conferred by the Legislature of the said province and not expressly authorized to be executed in any part of the Northwest Territories beyond the limits of the said province.⁽¹⁶⁴⁾

Education.

17. Section 93 of the *British North America Act, 1867*, shall apply to the said province, with the substitution for paragraph (1) of the said section 93, of the following paragraph:—

“(1) Nothing in any such law shall prejudicially affect any right or privilege with respect to separate schools which any class of persons have at the date of the passing of this Act, under the terms of chapters 29 and 30 of the Ordinances of the Northwest Territories, passed in the year 1901, or with respect to religious instruction in any public or separate school as provided for in the said ordinances.”

2. In the appropriation by the Legislature or distribution by the Government of the province of any moneys for the support of schools organized and carried on in accordance with the said chapter 29, or any Act passed in amendment thereof or in substitution therefor, there shall be no discrimination against schools of any class described in the said chapter 29.

3. Where the expression “by law” is employed in paragraph (3) of the said section 93, it shall be held to mean the law as set out in the said chapters 29 and 30; and where the expression “at the Union” is employed, in the said paragraph (3), it shall be held to mean the date at which this Act comes into force.

Subsidy to
province.

18. The following amounts shall be allowed as an annual subsidy to the province of Saskatchewan, and shall be paid by the Government of Canada, by half-yearly instalments in advance, to the said province, that is to say,—

⁽¹⁶⁴⁾ The Dominion statute, 1886, 49 V., c. 25, s. 3 amending the North West Territories Act and reproduced in the above Act, R.S.C. 1886, c. 50, s. 11, put in force in the Territories the laws of England, civil and criminal, as of July 15th, 1870 “so far as the same are applicable to the Territories,” and not repealed, altered or affected by subsequent appropriate legislation and the Saskatchewan Act continued the laws in effect at the time of its establishment.

- (a) for the support of the Government and Legislature, fifty thousand dollars; For government.
- (b) on an estimated population of two hundred and fifty thousand, at eighty cents per head, two hundred thousand dollars, subject to be increased as hereinafter mentioned, that is to say:—a census of the said province shall be taken every fifth year reckoning from the general census of one thousand nine hundred and one, and an approximate estimate of the population shall be made at equal intervals of time between each quinquennial and decennial census; and whenever the population, by any such census or estimate, exceeds two hundred and fifty thousand, which shall be the minimum on which the said allowance shall be calculated, the amount of the said allowance shall be increased accordingly, and so on until the population has reached eight hundred thousand souls. In proportion to population.

19. Inasmuch as the said province is not in debt, it shall be entitled to be paid and to receive from the Government of Canada, by half-yearly payments in advance, an annual sum of four hundred and five thousand three hundred and seventy-five dollars, being the equivalent of interest at the rate of five per cent per annum on the sum of eight million one hundred and seven thousand five hundred dollars.⁽¹⁶⁵⁾ Annual payment to province.

20. Inasmuch as the said province will not have the public land as a source of revenue, there shall be paid by Canada to the province by half-yearly payments, in advance, an annual sum based upon the population of the province as from time to time ascertained by the quinquennial census thereof, as follows:— Compensation to province for public lands.

The population of the said province being assumed to be at present two hundred and fifty thousand, the sum payable until such population reaches four hundred thousand, shall be three hundred and seventy-five thousand dollars;

Thereafter, until such population reaches eight hundred thousand, the sum payable shall be five hundred and sixty-two thousand five hundred dollars;

Thereafter, until such population reaches one million two hundred thousand, the sum payable shall be seven hundred and fifty thousand dollars;

And thereafter the sum payable shall be one million one hundred and twenty-five thousand dollars.

2. As an additional allowance in lieu of public lands, there shall be paid by Canada to the province annually by half-yearly payments, in advance, for five years from the time this Act comes into force, to provide for the construction of necessary public buildings, the sum of ninety-three thousand seven hundred and fifty dollars. Further compensation.

21. All Crown lands, mines and minerals and royalties incident thereto, and the interest of the Crown in the waters within the province under The Northwest Irrigation Act, 1898, shall continue to be vested in the Crown and administered by Property in lands, etc.

⁽¹⁶⁵⁾ See B.N.A. Act (1907), c. 11, s. 1, and notes to section 118 of the B.N.A. Act, 1867.

the Government of Canada for the purposes of Canada, subject to the provisions of any Act of the Parliament of Canada with respect to road allowances and roads or trails in force immediately before the coming into force of this Act, which shall apply to the said province with the substitution therein of the said province for the Northwest Territories.

Division of
assets and
liabilities
between
Alberta and
Saskatche-
wan.

Arbitration.

22. All properties and assets of the Northwest Territories shall be equally divided between the said province and the province of Alberta, and the two provinces shall be jointly and equally responsible for all debts and liabilities of the Northwest Territories: Provided that, if any difference arises as to the division and adjustment of such properties, assets, debts and liabilities, such difference shall be referred to the arbitrament of three arbitrators, one of whom shall be chosen by the Lieutenant-Governor in Council of each province, and the third by the Governor in Council. The selection of such arbitrators shall not be made until the Legislatures of the provinces have met, and the arbitrator chosen by Canada shall not be a resident of either province.

Rights of
H. B. Co.

23. Nothing in this Act shall in any way prejudice or affect the rights or properties of the Hudson's Bay Company as contained in the conditions under which that company surrendered Rupert's Land to the Crown.

Provision as
to C.P.R.
Co.

24. The powers hereby granted to the said province shall be exercised subject to the provisions of section 16 of the contract set forth in the schedule to chapter 1 of the statutes of 1881, being an Act respecting the Canadian Pacific Railway Company.

Commence-
ment of Act.

25. This Act shall come into force on the first day of September, one thousand nine hundred and five.

SCHEDULE.

(Section 13.)

The province of Saskatchewan shall be divided into twenty-five electoral divisions which shall respectively comprise and consist of the parts and portions of the province hereinafter described.

In the following descriptions where "meridians between ranges" and "boundaries of townships" or "boundaries of sections" are referred to as the boundaries of electoral divisions, these expressions means the meridians, boundaries of townships, or boundaries of sections, as the case may be, in accordance with the Dominion lands system of surveys, and include the extension thereof in accordance with the said system.

Names and Descriptions of Divisions.

(1) The electoral division of Souris, bounded as follows:—

Commencing at the south-east corner of the said province of Saskatchewan; thence northerly along the east boundary

of the said province of Saskatchewan to the north boundary of the 6th township; thence westerly along the said north boundary of the 6th townships to the meridian between the 10th and 11th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 10th and 11th ranges to the southern boundary of the said province of Saskatchewan; thence easterly along the said southern boundary of the province of Saskatchewan to the point of commencement.

(2) The electoral division of Cannington, bounded as follows:—

Commencing at the intersection of the eastern boundary of the said province of Saskatchewan by the north boundary of the 6th township; thence northerly along the said eastern boundary of the province of Saskatchewan to the north boundary of the 11th township; thence westerly along the said north boundary of the 11th townships to the meridian between the 10th and 11th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 10th and 11th ranges to the north boundary of the 6th township; thence easterly along the said north boundary of the 6th townships to the point of commencement.

(3) The electoral division of Moosomin, bounded as follows:—

Commencing at the intersection of the eastern boundary of the said province of Saskatchewan by the north boundary of the 11th township; thence northerly along the said eastern boundary of the province of Saskatchewan to the north boundary of the 19th township; thence westerly along the said north boundary of the 19th townships to the 2nd meridian; thence southerly along the said 2nd meridian to the north boundary of the 11th township; thence easterly along the said north boundary of the 11th townships to the point of commencement.

(4) The electoral division of Whitewood, bounded as follows:—

Commencing at the 2nd meridian where it is intersected by the north boundary of the 11th township; thence northerly along the said 2nd meridian to the north boundary of the 20th township; thence westerly along the said north boundary of the 20th townships to the meridian between the 4th and 5th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 4th and 5th ranges to the north boundary of the 11th township; thence easterly along the said north boundary of the 11th townships to the point of commencement.

(5) The electoral division of Grenfell, bounded as follows:—

Commencing at the meridian between the 4th and 5th ranges, west of the 2nd meridian, where it is intersected by the north boundary of the 11th township; thence northerly along the said meridian between the 4th and 5th ranges of the north boundary of the 20th township; thence westerly along the said north boundary of the 20th townships to the meridian between the 6th and 7th ranges, west of the 2nd meridian;

thence northerly along the said meridian between the 6th and 7th ranges to the north boundary of the 21st township; thence westerly along the said north boundary of the 21st township to the meridian between the 7th and 8th ranges, west of the 2nd meridian; thence northerly along the said meridian between the 7th and 8th ranges to the north boundary of the 22nd township; thence westerly along the said north boundary of the 22nd township to the meridian between the 8th and 9th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 8th and 9th ranges to the north boundary of the 11th township; thence easterly along the said north boundary of the 11th townships to the point of commencement.

(6) The electoral division of Wolseley, bounded as follows:—

Commencing at the meridian between the 8th and 9th ranges west of the 2nd meridian, where it is intersected by the north boundary of the 11th township; thence northerly along the said meridian between the 8th and 9th ranges to the north boundary of the 22nd township; thence westerly along the said north boundary of the 22nd townships to the meridian between the 10th and 11th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 10th and 11th ranges to the north boundary of the 19th township; thence westerly along the said north boundary of the 19th township to the meridian between the 11th and 12th ranges west of the 2nd meridian; thence southerly along the said meridian between the 11th and 12th ranges to the north boundary of the 11th township; thence easterly along the said north boundary of the 11th townships to the point of commencement.

(7) The electoral division of Saltcoats, bounded as follows:—

Commencing at the intersection of the eastern boundary of the said province of Saskatchewan by the north boundary of the 19th township; thence northerly along the said eastern boundary of the province of Saskatchewan to the north boundary of the 34th township; thence westerly along the said north boundary of the 34th townships to the meridian between the 3rd and 4th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 3rd and 4th ranges to the north boundary of the 20th township; thence easterly along the said north boundary of the 20th townships to the 2nd meridian; thence southerly along the said 2nd meridian to the north boundary of the 19th township; thence easterly along the said north boundary of the 19th townships to the point of commencement.

(8) The electoral division of Yorkton, bounded as follows:—

Commencing at the meridian between the 3rd and 4th ranges, west of the 2nd meridian, where it is intersected by the north boundary of the 20th township; thence northerly along the said meridian between the 3rd and 4th ranges to the north boundary of the 34th township; thence westerly along the said north boundary of the 34th townships to the meridian between

the 10th and 11th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 10th and 11th ranges to the north boundary of the 22nd township; thence easterly along the said north boundary of the 22nd townships to the meridian between the 7th and 8th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 7th and 8th ranges to the north boundary of the 21st township; thence easterly along the said north boundary of the 21st township to the meridian between the 6th and 7th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 6th and 7th ranges to the north boundary of the 20th township; thence easterly along the said north boundary of the 20th townships to the point of commencement.

(9) The electoral division of South Qu'Appelle, bounded as follows:—

Commencing at the meridian between the 10th and 11th ranges, west of the 2nd meridian, where it is intersected by the southern boundary of the said province of Saskatchewan; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of the 11th township; thence westerly along the said north boundary of the 11th township to the meridian between the 11th and 12th ranges, west of the 2nd meridian; thence northerly along the said meridian between the 11th and 12th ranges to the north boundary of the 19th township; thence westerly along the said north boundary of the 19th townships to the meridian between the 16th and 17th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 16th and 17th ranges to the southern boundary of the said province of Saskatchewan; thence easterly along the said southern boundary of the province of Saskatchewan to the point of commencement.

(10) The electoral division of North Qu'Appelle, bounded as follows:—

Commencing at the meridian between the 10th and 11th ranges, west of the 2nd meridian, where it is intersected by the north boundary of the 19th township; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of the 34th township; thence westerly along the said north boundary of the 34th townships to the meridian between the 16th and 17th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 16th and 17th ranges to the north boundary of the 19th township; thence easterly along the said north boundary of the 19th townships to the point of commencement.

(11) The electoral division of South Regina, bounded as follows:—

Commencing at the meridian between the 16th and 17th ranges, west of the 2nd meridian, where it is intersected by the southern boundary of the said province of Saskatchewan; thence northerly along the said meridian between the 16th and 17th ranges to where it is intersected by the centre of the track of the main line of the Canadian Pacific Railway; thence westerly along the said centre of the track of the main line of the Canadian Pacific Railway to where it is first intersected by the north

boundary of the 17th township; thence westerly along the said north boundary of the 17th townships to the meridian between the 23rd and 24th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 23rd and 24th ranges to the southern boundary of the said province of Saskatchewan; thence easterly along the said southern boundary of the province of Saskatchewan to the point of commencement. Excepting and reserving out of the said electoral division of South Regina all that portion thereof comprised within the limits of the city of Regina as incorporated by ordinance of the Northwest Territories.

(12) The electoral division of Regina City, comprising the city of Regina as incorporated by ordinance of the Northwest Territories.

(13) The electoral division of Lumsden, bounded as follows:—

Commencing at the meridian between the 16th and 17th ranges, west of the 2nd meridian, where it is intersected by the centre of the track of the main line of the Canadian Pacific Railway; thence northerly along the said meridian between the 16th and 17th ranges to the north boundary of the 34th township; thence westerly along the said north boundary of the 34th townships to the meridian between the 23rd and 24th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 23rd and 24th ranges to the point where it is first intersected by the east shore of Last Mountain lake, thence southerly along the said east shore of the said lake to its intersection with the meridian between the 23rd and 24th ranges in township 24; thence southerly along the said meridian between the 23rd and 24th ranges to the north boundary of the 17th township; thence easterly along the said north boundary of the 17th townships to where it is first intersected by the centre of the track of the main line of the Canadian Pacific Railway; thence easterly along the said centre of the track of the main line of the Canadian Pacific Railway to the point of commencement.

(14) The electoral division of Moose Jaw, bounded as follows:—

Commencing at the meridian between the 23rd and 24th ranges, west of the 2nd meridian, where it is intersected by the southern boundary of the said province of Saskatchewan; thence northerly along the said meridian between the 23rd and 24th ranges to the point where the said meridian intersects the east shore of Last Mountain lake in township 24; thence northerly along the said east shore of Last Mountain lake to its intersection with the northern boundary of township 26, thence westerly along the said north boundary of the 26th townships to the meridian between the 7th and 8th ranges, west of the 3rd meridian; thence southerly along the said meridian between 7th and 8th ranges to the southern boundary of the said province of Saskatchewan; thence easterly along the said southern boundary of the province of Saskatchewan to the point of Commencement;—excepting and reserving out of the said electoral division of Moose Jaw all that portion

thereof comprised within the limits of the city of Moose Jaw as incorporated by ordinance of the Northwest Territories.

(15) The electoral division of Moose Jaw City, comprising the City of Moose Jaw as incorporated by ordinance of the Northwest Territories.

(16) The electoral division of Maple Creek, bounded as follows:—

Commencing at the meridian between the 7th and 8th ranges, west of the third meridian, where it is intersected by the southern boundary of the said province of Saskatchewan; thence northerly along the said meridian between the 7th and 8th ranges in the north boundary of the 26th township; thence westerly along the said north boundary of the 26th township to the western boundary of the said province of Saskatchewan; thence southerly along the said western boundary of the province of Saskatchewan to the southern boundary of the said province of Saskatchewan; thence easterly along the said southern boundary of the province of Saskatchewan to the point of commencement.

(17) The electoral division of Humboldt, bounded as follows:—

Commencing at the intersection of the eastern boundary of the said province of Saskatchewan by the north boundary of the 34th township; thence northerly along the said eastern boundary of the province of Saskatchewan to the north boundary of the 42nd township; thence westerly along the said north boundary of the 42nd townships to the meridian between the 24th and 25th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 24th and 25th ranges to the north boundary of the 34th township; thence easterly along the said north boundary of the 34th townships to the point of commencement.

(18) The electoral division of Kinistino, bounded as follows:—

Commencing at the intersection of the eastern boundary of the said province of Saskatchewan by the north boundary of the 42nd township; thence northerly along the said eastern boundary of the province of Saskatchewan to the north-east corner of the said province; thence westerly along the northern boundary of the said province of Saskatchewan to the meridian between the 24th and 25th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 24th and 25th ranges to the north limit of the Indian Reserve Chief Muskoday; thence easterly along the said north limit of the Indian Reserve Chief Muskoday to the South Saskatchewan river; thence along the South Saskatchewan river up stream to the north boundary of the 45th township; thence easterly along the said north boundary of the 45th townships to the meridian between the 24th and 25th ranges, west of the 2nd meridian; thence southerly along the said meridian between the 24th and 25th ranges, to the north boundary of the 42nd township; thence easterly along the said north boundary of the 42nd townships to the point of commencement.

(19) The electoral division of Prince Albert, bounded as follows:—

Commencing at the meridian between the 24th and 25th ranges, west of the 2nd meridian, where it is intersected by the northern boundary of the said province of Saskatchewan; thence westerly along the said northern boundary of the province of Saskatchewan to the meridian between the 5th and 6th ranges, west of the 3rd meridian; thence southerly along the said meridian between the 5th and 6th ranges to the north boundary of the 47th township; thence easterly along the said north boundary of the 47th townships to the meridian between the first and 2nd ranges, west of the 3rd meridian; thence southerly along the said meridian between the 1st and 2nd ranges to the north boundary of the 46th township; thence easterly along the said north boundary of the 46th townships to the 3rd meridian; thence southerly along the said 3rd meridian to the South Saskatchewan river; thence along the said South Saskatchewan river down stream to the north limit of the Indian Reserve Chief Muskoday; thence westerly along the said north limit of the Indian Reserve Chief Muskoday to the meridian between the 24th and 25th ranges, west of the 2nd meridian; thence northerly along the said meridian between the 24th and 25th ranges to the point of commencement; excepting and reserving out of the said electoral division all those portions described as follows:—

Firstly, the city of Prince Albert as incorporated by ordinances of the Northwest Territories; and

Secondly, those portions of lots 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81 and 82 of the Prince Albert settlement which lie to the south of the said city of Prince Albert as incorporated and that portion of the Hudson Bay reserve outside of and adjoining the said city on the east and south and which lies to the north of the production in a straight line easterly of the southern boundary of the said lot 82 in the Prince Albert settlement; and

Thirdly, fractional sections 13 and 24 in the 48th township in the 26th range west of the 2nd meridian.

(20) The electoral division of Prince Albert City, comprising:—

Firstly, the city of Prince Albert as incorporated by ordinance of the Northwest Territories; and

Secondly, those portions of lots 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81 and 82 of the Prince Albert settlement which lie to the south of the said city of Prince Albert as incorporated and that portion of the Hudson Bay reserve outside of and adjoining the said city on the east and south and which lies to the north of the production in a straight line easterly of the southern boundary of the said lot 82 in the Prince Albert settlement; and

Thirdly, fractional sections 13 and 24 in the 48th township in the 26th range west of the 2nd meridian.

(21) The electoral division of Batoche, bounded as follows:—

Commencing at the meridian between the 23rd and 24th ranges, west of the 2nd meridian, where it is intersected by the

north boundary of the 26th township; thence northerly along the said meridian between the 23rd and 24th ranges to the north boundary of the 34th township; thence westerly along the said north boundary of the 34th township to the meridian between the 24th and 25th ranges, west of the 2nd meridian; thence northerly along the said meridian between the 24th and 25th ranges to the north boundary of the 45th township; thence westerly along the said north boundary of the 45th townships to where it first intersects the South Saskatchewan river; thence along the said South Saskatchewan river up stream to the north boundary of the 40th township; thence easterly along the said north boundary of the 40th townships to the meridian between the 1st and 2nd ranges, west of the 3rd meridian; thence southerly along the said meridian between the 1st and 2nd ranges to the north boundary of the 26th township; thence easterly along the said north boundary of the 26th townships to the point of commencement.

(22) The electoral division of Saskatoon, bounded as follows:—

Commencing at the meridian between the 1st and 2nd ranges, west of the 3rd meridian, where it is intersected by the north boundary of the 26th township; thence northerly along the said meridian between the 1st and 2nd ranges to the north boundary of the 40th township; thence westerly along the said north boundary of the 40th township to the South Saskatchewan river; thence along the said South Saskatchewan river down stream to the north boundary of the 41st township; thence westerly along the said north boundary of the 41st townships to the North Saskatchewan river; thence along the said North Saskatchewan river up stream to the meridian between the 13th and 14th ranges west of the 3rd meridian; thence southerly along the said meridian between the 13th and 14th ranges to the north boundary of the 26th township; thence easterly along the said north boundary of the 26th townships to the point of commencement.

(23) The electoral division of Rosthern bounded as follows:—

Commencing at the north boundary of the 41st township where it is intersected by the South Saskatchewan river; thence along the said South Saskatchewan river down stream to the 3rd meridian; thence northerly along the said 3rd meridian to the north boundary of the 46th township; thence westerly along the said north boundary of the 46th township to the meridian between the 1st and 2nd ranges, west of the 3rd meridian; thence northerly along the said meridian between the 1st and 2nd ranges to the north boundary of the 47th township; thence westerly along the said north boundary of the 47th townships to the meridian between the 5th and 6th ranges, west of the 3rd meridian; thence southerly along the said meridian between the 5th and 6th ranges to the North Saskatchewan river; thence along the said North Saskatchewan river up stream to the north boundary of the 41st township; thence easterly along the said north boundary of the 41st townships to the point of commencement.

(24) The electoral division of Redberry, bounded as follows:—

Commencing at the meridian between the 5th and 6th ranges, west of the 3rd meridian, where it is intersected by the North Saskatchewan river; thence northerly along the said meridian between the 5th and 6th ranges, to the northern boundary of the said province of Saskatchewan; thence westerly along the said northern boundary of the province of Saskatchewan to the meridian between the 13th and 14th ranges, west of the 3rd meridian; thence southerly along the said meridian between the 13th and 14th ranges, to the North Saskatchewan river; thence along the said North Saskatchewan river down stream to the point of commencement.

(25) The electoral division of Battleford, bounded as follows:—

Commencing at the meridian between the 13th and 14th ranges, west of the 3rd meridian, where it is intersected by the north boundary of the 26th township; thence northerly along the said meridian between the 13th and 14th ranges, to the northern boundary of the said province of Saskatchewan; thence westerly along the said northern boundary of the province of Saskatchewan to the western boundary of the said province of Saskatchewan; thence southerly along the said western boundary of the province of Saskatchewan to the north boundary of the 26th township; thence easterly along the said north boundary of the 26th townships to the point of commencement.

THE PRINCE EDWARD ISLAND SUBSIDY
ACT, 1912 ⁽¹⁶⁶⁾

2 GEORGE V, CHAPTER 42.

An Act to provide an additional Annual Grant to the
Province of Prince Edward Island.

[Assented to 1st April, 1912.]

His Majesty, by and with the advice and consent of the Senate
and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as *The Prince Edward Island Subsidy Act, 1912.* Short title.

2. There shall be paid to the province of Prince Edward Island, in addition to the sums now authorized by law, an annual grant of one hundred thousand dollars, one half of which shall become payable on the first day of July and one half on the first day of January in every year, beginning with the first day of July, one thousand nine hundred and twelve. Annual grant to P.E.I. increased.

⁽¹⁶⁶⁾ See the *Provincial Subsidies Act* which follows. Item 526 of the *Appropriation Act No. 6*, chapter 76 of the statutes of 1926-27 reads as follows:—

“526. Amount required to provide for grants to be made to the Provinces of—

Nova Scotia.....	\$875,000 00
New Brunswick.....	600,000 00
Prince Edward Island.....	125,000 00”

THE PROVINCIAL SUBSIDIES ACT.⁽¹⁶⁷⁾

R.S. 1927, CHAPTER 192.

An Act respecting Subsidies and Allowances to the Provinces.

SHORT TITLE.

Short title. **1.** This Act may be cited as the Provincial Subsidies Act. R.S., c. 28, s. 1.

FIXED SUBSIDIES.

New Brunswick.⁽¹⁶⁸⁾

Subsidy to New Brunswick in lieu of export duty on lumber.

2. The province of New Brunswick, in consideration of the Legislature thereof having passed an Act providing for the repeal of all duties of export on lumber exported from the Province, shall, so long as no such duties of export are imposed by the said Legislature, be paid, in addition to the subsidy to which the Province is entitled, a subsidy at the rate of one hundred and fifty thousand dollars annually, as indemnity for the loss of such duties and the right to impose the same. R.S., c. 28, s. 2.

Prince Edward Island.⁽¹⁶⁹⁾

Subsidy to Prince Edward Island.

3. To the province of Prince Edward Island, there shall continue to be paid in addition to all other subsidies and allowances payable to the Province, an annual allowance or subsidy of twenty thousand dollars, payable half-yearly in advance on the first days of July and January in each and every year.

Additional.

2. To the said province of Prince Edward Island, in addition to all other sums authorized by law, there shall also continue to be paid an annual allowance of thirty thousand dollars, payable half-yearly in advance on the first days of July and January in each and every year.

In settlement of certain claims.

3. Such last-mentioned annual allowance shall be paid and accepted in full settlement of all claims of the Province against the Dominion of Canada on account of alleged non-fulfilment of the terms of union between the Dominion and the Province as respects the maintenance of efficient steam communication between the Island and the mainland.

⁽¹⁶⁷⁾ See note to section 118 of the B.N.A. Act, 1867, also The B.N.A. Act, 1907, and also notes ⁽⁶¹⁾ and ⁽⁶²⁾.

⁽¹⁶⁸⁾ See The Maritime Provinces Additional Subsidies Act, 1942 (chapter 14 of the statutes of Canada, 1942-43).

⁽¹⁶⁹⁾ See note ⁽¹⁶⁸⁾ above.

Manitoba.

4. The following amounts shall be allowed as the annual subsidy to the province of Manitoba, and shall be paid yearly to the Province, that is to say:—

- | | |
|--|---|
| (a) For the support of the Government and Legislature, fifty thousand dollars; | Subsidy to Manitoba.

For Government, etc. |
| (b) On an estimated population of one hundred and fifty thousand, at eighty cents per head, one hundred and twenty thousand dollars, subject to be increased as hereinafter mentioned, that is to say: a census of the Province shall be taken in every fifth year, reckoning from the general census of one thousand eight hundred and eighty-one; and an approximate estimate of the population shall be made at equal intervals of time between each quinquennial and decennial census; and whenever the population, by an such census or estimate, exceeds one hundred and fifty thousand, which shall be the minimum on which the said allowance shall be calculated, the amount of the said allowance shall be increased accordingly, and so on, until the population has reached four hundred thousand souls; | Readjustment of per capita allowance according to census. |
| (c) As an indemnity for the want of public lands, one hundred thousand dollars. R.S., c. 28, s. 4. | Indemnity for want of public lands. |

INTEREST ON DEBT ALLOWANCES.

5. In the accounts between the several provinces of Ontario, Quebec, Nova Scotia, New Brunswick and British Columbia, respectively, and Canada, the amounts payable to and chargeable against the said provinces respectively, in so far as they depend upon the amount of debt with which each province entered the Union, shall be calculated and allowed as if

- | | |
|---|--|
| (a) in the case of the provinces of Ontario and Quebec respectively, the sum fixed by the one hundred and twelfth section of the <i>British North America Act, 1867</i> , was increased from sixty-two million five hundred thousand dollars to seventy-three million six hundred and eighty-eight dollars and eighty-four cents; | Allowances to provinces in relation to amount of debt. |
| (b) in the case of the province of Nova Scotia, the amount fixed by the one hundred and fourteenth section of the said Act was increased in the same proportion; | |
| (c) in the case of the province of New Brunswick, the amount fixed by the one hundred and fifteenth section of the said Act, was increased in the same proportion; and, | |
| (d) in the case of the province of British Columbia, the amount upon which it was to receive interest fixed by or under the terms and conditions on which the province was admitted into the Dominion was increased in the same proportion. | |

As to
Nova Scotia.

2. The increased subsidy to be allowed to the province of Nova Scotia under this section shall be based upon the sum of nine million one hundred and eighty-six thousand seven hundred and fifty-six dollars, as if that sum had been mentioned in the one hundred and fourteenth section of the *British North America Act, 1867*, instead of the sum of eight million dollars. R.S., c. 28, s. 5.

Calculation
of allow-
ances to
Ontario
and Que-
bec and
to Nova
Scotia and
New
Brunswick.

6. In the accounts between the several provinces and Canada, the amounts by which the yearly subsidy to each province was increased by the Act of the Parliament of Canada, passed in the year one thousand eight hundred and seventy-three, chapter thirty, as explained with respect to Nova Scotia by the Act of the said Parliament, passed in the year one thousand eight hundred and seventy-four, chapter three, shall be calculated and allowed to Ontario and Quebec jointly, as having formed the late province of Canada, and to Nova Scotia and New Brunswick, as if the said Acts had directed that such increase should be allowed from the day of the coming into force of the *British North America Act, 1867*.

Capital
bearing
interest at
five per
cent.

2. The total amount of the half-yearly payments which would in that case have been made on account of such increase from the first day of July, one thousand eight hundred and sixty-seven, up to and including the first day of January, one thousand eight hundred and seventy-three, with interest on each at five per centum per annum, from the day on which it would have been so paid to the first day of July, one thousand eight hundred and eighty-four, shall be deemed capital owing to the said provinces respectively, bearing interest at five per centum per annum, which interest shall be payable to them as part of their yearly subsidies from Canada. R.S., c. 28, s. 6.

As to
British
Columbia
and Prince
Edward
Island.

Increase.

7. In the accounts between Canada and the provinces of British Columbia and Prince Edward Island, the amounts calculated and allowed as the debts of those provinces respectively, on the nineteenth day of April, one thousand eight hundred and eighty-four, and on which they were then paid interest by Canada, shall be increased by amounts bearing the same proportion to the respective populations of the said provinces, as ascertained by the census of one thousand eight hundred and eighty-one, as the total of the amounts to be added under the last preceding section as capital owing to Ontario and Quebec, Nova Scotia and New Brunswick, bear to the combined population of the four last-named provinces, as ascertained by the said census of one thousand eight hundred and eighty-one.

Capital
bearing in-
terest at
five per
cent.

2. The amounts of such increases, as regards the said provinces of British Columbia and Prince Edward Island, shall be deemed capital owing to the said provinces respectively, bearing interest at the rate of five per centum per annum, which interest shall be payable to them as part of their respective subsidies from Canada. R.S., c. 28, s. 7.

Capital and
yearly pay-
ments
specified.

8. The amount of the increase of the yearly subsidy and the capital on which the same is payable to the several provinces

respectively, under the two last preceding sections shall be as follows:—

	Yearly increase.	Capital.
To Ontario and Quebec jointly	\$269,875 16	\$5,397,503 13
Nova Scotia	39,939 68	798,793 45
New Brunswick	30,225 97	604,519 35
British Columbia	4,155 39	83,107 88
Prince Edward Island	9,148 68	182,973 78

R.S., c. 28, s. 8.

Manitoba.

9. The capital sum on which the province of Manitoba is entitled to receive half-yearly payments of interest at the rate of five per centum per annum, as fixed by the Act of the Parliament of Canada passed in the year one thousand eight hundred and seventy, chapter three, and as readjusted or increased by any subsequent Act, shall continue to be calculated on a population of one hundred and twenty-five thousand at a rate *per capita* ascertained by dividing the sum of five hundred and fifty-one thousand four hundred and forty-seven dollars, by seventeen thousand, which was the estimated population of the Province under the said Act, the said sum of five hundred and fifty-one thousand four hundred and forty-seven dollars being the amount of capital on which the Province was entitled to receive interest under and by virtue of section twenty-four of the Act hereinbefore last cited and chapter thirty of the Acts of the Parliament of Canada passed in the year one thousand eight hundred and seventy-three.

Calculation of sum on which interest is payable to Manitoba as subsidy.

2. The Province shall be charged with such advances as had, up to the twentieth day of July, one thousand eight hundred and eighty-five, been made to the Province, and with such expenditure as had been made therein by the Dominion for purposes of a strictly local character, and with a further sum of one hundred and fifty thousand dollars, which the Dominion Government may advance to the Province to meet the expenditure of constructing a lunatic asylum, and other exceptional services. R.S., c. 28, s. 9.

Charges thereon.

10. The grant of swamp lands and the grant of lands not exceeding one hundred and fifty thousand acres as an endowment to the University of Manitoba, authorized by Part I of the Manitoba Supplementary Provisions Act, and the payments to the Province of Manitoba hereinbefore authorized, shall be made as a full settlement of all claims made by the said Province for the reimbursement of costs incurred in the government of the disputed territory, or the reference of the boundary question to the Judicial Committee of the Privy Council, and all other questions and claims discussed between the Dominion and the provincial governments, up to the tenth day of January, one thousand eight hundred and eighty-five. R.S., c. 28, s. 10.

Payments and grant of lands in full settlement of certain claims.

ADVANCES.

11. The Governor in Council may, in his discretion, advance, from time to time, to any province of Canada, any sums required for local improvements in the province, and not

Advances to provinces authorized.

exceeding in the whole the amount by which the debt of the province for which Canada is responsible then falls short of the debt with which the province was allowed to enter the Union. Provided that no such advance shall be made to any province unless it has been previously sanctioned by an Act of the legislature of that province.

Conditions
of such
advances.

2. Such advances shall be deemed additions to the debt of the province, and the province may repay them to Canada, on such notice, in such sums and on such conditions as the Government of Canada and that of the province agree upon; and any amount so repaid shall be deducted from the debt of the province in calculating the subsidy payable to it. R.S., c. 28, s. 11.

THE DOMINION-PROVINCIAL TAXATION AGREEMENT ACT, 1942.

6 GEORGE VI, CHAPTER 13.

An Act to authorize the Governor in Council to enter into agreements with the Governments of the Provinces of Canada respecting the vacation by the provinces of the personal income and corporation tax fields for the duration of the war.⁽¹⁷⁰⁾

[Assented to 28th May, 1942.]

WHEREAS the Dominion and the provinces and certain municipalities have been levying taxes upon incomes and upon corporations, and it is expedient during the continuation of the present war and for a certain re-adjustment period thereafter that the Dominion only should levy such taxes: Therefore, His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.

1. This Act may be cited as *The Dominion-Provincial Taxation Agreement Act, 1942.*

Short title.

2. The Minister of Finance, with the approval of the Governor in Council, may enter into an agreement with the government of any of the provinces of Canada to provide, in accordance with and subject to such terms and conditions as may be set out therein, that the province and its municipalities shall cease to levy personal income and corporation taxes as defined in such agreement and subject to such exceptions as may be set out in such agreement, for the duration of the war and for a certain re-adjustment period thereafter, and to provide for the payment of compensation by the Dominion to the province therefor.

Agreements with the provinces.

3. The annual amount of such compensation shall be,
(a) in the case of the provinces of British Columbia, Alberta, Manitoba, Ontario and Quebec, respectively as follows:—

Annual amount of compensation.

British Columbia.....	\$12,048,367.51
Alberta.....	4,080,860.64
Manitoba.....	5,054,740.92
Ontario.....	28,964,039.54
Quebec.....	20,586,074.56

⁽¹⁷⁰⁾ On the second reading of the Bill, that is on the 25th of May, 1942, the Minister of Finance stated that what the provinces were required to do was to vacate the personal income and corporation tax fields for the duration of the agreement which will run one year after the cessation of hostilities unless a province terminates its agreement sooner, that is at the end of any fiscal year. See also the different provincial Acts respecting these agreements, for instance ch. 1 of the Statutes of Ontario, 1942, etc.

being an amount in each case calculated as equivalent to the total revenue obtained by the said provinces from personal income and corporation taxes during the fiscal year of each of said provinces and of municipalities therein ending nearest to the thirty-first day of December, 1940, which by the terms of the agreement will cease to be levied; and

(b) in the case of the provinces of Nova Scotia, New Brunswick, Prince Edward Island and Saskatchewan, respectively as follows:

Nova Scotia.....	\$ 2,585,308.72
New Brunswick.....	3,278,574.15
Prince Edward Island...	264,769.94
Saskatchewan.....	4,330,471.29

being an amount in each case calculated as equivalent to the net debt service paid by the province during its fiscal year ending nearest to December 31, 1940 (not including contributions to sinking funds) less the revenues obtained by the province from succession duties during the said fiscal year:

Proviso. Provided that any arrears of personal income and corporation taxes collected by a province after the close of its said fiscal year may, in accordance with and subject to such terms and conditions as may be set out in the agreement, be deducted from the annual amount payable to the province and shall be paid to the province after the termination of the agreement.

Additional subsidies. 4. The agreement may also provide that in the case of the Provinces of Nova Scotia, New Brunswick, Prince Edward Island, Manitoba and Saskatchewan, the Dominion shall pay by way of additional subsidy during each year of the term of the agreement the respective amounts hereinafter set forth:

Nova Scotia.....	\$ 325,769.31
New Brunswick.....	371,493.30
Prince Edward Island...	437,174.02
Manitoba.....	600,000.00
Saskatchewan.....	1,500,000.00

Compensation for loss of revenue re tax on sale of gasoline. 5. The agreement may also provide, in accordance with and subject to such terms and conditions as may be set out therein, that the Dominion shall pay with respect to each year of the term of the agreement to the province the amount by which the net receipts during the said year from the tax imposed by the province on the sale of gasoline are less in each case than the following amounts:

Nova Scotia.....	\$ 2,853,363.82
New Brunswick.....	2,101,072.01
Prince Edward Island...	307,901.72
Quebec.....	11,803,248.13
Ontario.....	26,608,290.59
Manitoba.....	2,678,148.64
Saskatchewan.....	3,397,279.42
Alberta.....	3,221,975.68
British Columbia	3,763,625.95

being an amount in each case calculated as equivalent to the net receipts of the province from the tax imposed by the province on the sale of gasoline during the fiscal year of the province ending nearest to December 31, 1940.

6. The amounts payable to any province pursuant to an agreement made under the provisions of this Act or under any agreement heretofore made within the terms hereof shall be a charge upon the Consolidated Revenue Fund of Canada and payable out of any unappropriated moneys forming part thereof and shall be paid at such times and in such manner as may be set out in the agreement.

7. This Act shall be deemed to have come into force on the fifteenth day of March, 1942.

THE MARITIME PROVINCES ADDITIONAL SUBSIDIES ACT, 1942.

6 GEORGE VI, CHAPTER 14.

An Act to provide for the payment of additional subsidies to the Maritime Provinces.⁽¹⁷¹⁾

Preamble.

R.S., c. 99.

R.S., c. 99.

WHEREAS by Order in Council, P.C. 505, of the 7th day of April, 1926, a commission composed of Sir Andrew Rae Duncan, Kt., His Honour W. B. Wallace, judge of the County Court, district No. 1, in the province of Nova Scotia, and professor Cyrus MacMillan of McGill University, (hereinafter referred to as the "Duncan Commission"), was constituted under Part I of the *Inquiries Act*, to inquire into and report upon certain representations which had been made by the governments of the Maritime Provinces; and whereas the said Commission made certain recommendations with regard to the readjustment of the financial arrangements between the Government of the Dominion and the Governments of the provinces; and whereas following the report of the said Commission the Governments of the Maritime Provinces represented to the Dominion Government that a commission be set up to take under consideration and deal with the recommendations of the Duncan Commission that there be a revision of the financial arrangements between the Dominion Government and the Maritime Provinces; and whereas by Order in Council, P.C. 2231, of the 14th day of September, 1934, a commission composed of the Right Honourable Sir Thomas White, K.C.M.G., P.C., the Honourable John Alexander Mathieson, Chief Justice of the Supreme Court of Prince Edward Island, and Edward Nesbitt, esquire, (hereinafter referred to as the "White Commission") was constituted under Part I of the *Inquiries Act* to take into consideration and deal with the recommendations of the Duncan Commission that there be a revision of the financial arrangements between the Dominion Government and the Maritime Provinces; and whereas the said White Commission recommended the payment of special additional subsidies to the Maritime Provinces as a final equitable settlement of the claims brought before it; and whereas the Governments of the Maritime Provinces have requested that an Act of Parliament be passed to implement the recommendations of the said White Commission: Therefore, His Majesty, by and with the advice

⁽¹⁷¹⁾ The grants provided in this Act are those which had been voted year by year by Parliament, pursuant to the findings of two commissions, the Duncan Commission and the White Commission. The maritime provinces considered that since they were foregoing these grants for the period of the agreements mentioned in the preceding Act, chapter 13 of the statutes of 1942, they should have some statutory guarantee that the grants would be resumed at the termination of the agreements. See the speech of the Minister of Finance on the 25th day of May, 1942, pages 2749-2750 of Hansard, session 1942.

and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as *The Maritime Provinces Additional Subsidies Act, 1942*. Short title.

2. The following additional annual subsidies shall be paid half-yearly in advance: Additional annual subsidies.

To Nova Scotia.....	\$ 1,300,000
To New Brunswick.....	900,000
To Prince Edward Island.....	275,000

out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada and be a charge thereon: Provided the said subsidies shall not be payable to any such province while an agreement under the provisions of *The Dominion Provincial Taxation Agreement Act, 1942*, remains in force with respect to such province.

Charge on Consolidated Revenue Fund.
Proviso.
Payable after termination of agreements.

THE DOMINION-ALBERTA SUPPLEMENTARY TAXATION AGREEMENT ACT, 1945 ⁽¹⁷²⁾

9-10 GEORGE VI, CHAPTER 17.

An Act to authorize the Minister of Finance, with the approval of the Governor in Council, to enter into an Agreement with the Province of Alberta to amend the Agreement entered into with that Province under the authority of the Dominion-Provincial Taxation Agreement Act, 1942.

[Assented to 18th December, 1945.]

1942-43, c. 13. His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title. **1.** This Act may be cited as *The Dominion-Alberta Supplementary Taxation Agreement Act, 1945*.

Authority to enter into agreement. **2.** Notwithstanding anything contained in *The Dominion-Provincial Taxation Agreement Act, 1942*, the Minister of Finance, with the approval of the Governor in Council, may enter into an agreement with the Government of the Province of Alberta to amend the agreement entered into with the Government of that province pursuant to the said Act dated the thirtieth day of March, one thousand nine hundred and forty-two, to provide

Terms. (a) that the annual amount of compensation which the Dominion agrees to pay to the province under section ten of the said agreement shall, subject to the deductions provided in the said section ten and all other terms and conditions of the said agreement, be the sum of five million, eight hundred and twenty-seven thousand, seven hundred and ninety-three dollars and ninety-four cents, being an amount calculated as equivalent to the net debt service of the province in respect of the fiscal period mentioned in paragraph (b) of section three of the said Act instead of the sum of four million, eighty thousand, eight hundred and sixty dollars and sixty-four cents as provided in paragraph (a) of the said section three as being the amount calculated as equivalent to the total revenues obtained by the province from personal and corporation taxes during the fiscal period mentioned therein;

⁽¹⁷²⁾ The Act authorized the Minister of Finance, with the approval of the Governor in Council, to enter into an agreement with the Province of Alberta to amend the agreement with that province made under *The Dominion Provincial Taxation Agreement Act, 1942*.

Under the amended agreement the province receives \$5,827,793.94 annually during the currency of the agreement in place of the sum of \$4,080,860.64 it previously received. The sum of \$5,827,793.94 represents the amount the province would have received had it elected to take "the net debt service option" instead of the "tax receipts option". The province received also the lump sum of \$2,400,000 representing a fiscal need subsidy of \$600,000 in respect of each of the four fiscal years of the province ending in the years 1938 to 1941 inclusive.

The two relevant sections of *The Dominion Provincial Taxation Agreement Act, 1942*, are sections three and four.

- (b) that the Dominion will pay to the province such additional amount as would have been payable under the said agreement during the period in which the said agreement was in operation prior to the amendment thereof herein provided for, if the sum first mentioned in paragraph (a) of this section had, subject as aforesaid, been payable under the said section ten of the agreement in the place of the sum last mentioned in paragraph (a) of this section from the time when the said agreement first came into operation; and
- (c) that the Dominion will pay to the province by way of additional subsidy the sum of two million four hundred thousand dollars representing the sums of six hundred thousand dollars in respect of each of the fiscal years of the Province ending in the years one thousand nine hundred and thirty-eight to one thousand nine hundred and forty-one inclusive.

3. The amounts payable to the Province of Alberta pursuant to an agreement made under the provisions of this Act or under any agreement or Order in Council heretofore made within the terms hereof shall be a charge upon the Consolidated Revenue Fund of Canada and payable out of any unappropriated moneys forming part thereof at such times and in such manner as may be set out in the agreement.

Payments
out of
C.R. Fund.

4. This Act shall be deemed to have come into force on the seventh day of June, one thousand nine hundred and forty-five.

Coming
into force.

THE DOMINION-PROVINCIAL TAX RENTAL AGREEMENTS ACT, 1947

11 GEORGE VI, 1947, CHAPTER 58.

An Act to authorize the Government of Canada to enter into Agreements with the Governments of the Provinces pursuant to which, in return for compensation, the Provinces agree to refrain from levying certain taxes for a limited period.

[Assented to 17th July, 1947.]

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title.

1. This Act may be cited as *The Dominion-Provincial Tax Rental Agreements Act, 1947*.

INTERPRETATION.

Definitions,
“agreement.”

2. (1) In this Act, unless the context otherwise requires,
(a) “agreement” means an agreement entered into under subsection one of section three of this Act and includes any amending agreement entered into under subsection three of the said section;

“statutory
subsidies.”

(b) “statutory subsidies” means the subsidies payable to any province, with which an agreement has been entered into, under any of the following enactments:—

1900, c. 7.

(i) *The British North America Acts, 1867 to 1946*, and Orders in Council thereunder;

(ii) An Act respecting the construction of a Branch Railway from Charlottetown to Murray Harbour, chapter seven of the statutes of 1900;

1912, c. 32.

(iii) *The Manitoba Boundaries Extension Act, 1912*;

1912, c. 42.

(iv) *The Prince Edward Island Subsidy Act, 1912*;

R.S., c. 192.

(v) *The Provincial Subsidies Act*;

1930, c. 3.

(vi) *The Alberta Natural Resources Act*;

1930, c. 37.

(vii) *The Railway Belt and Peace River Block Act*;

1930, c. 29.

(viii) *The Manitoba Natural Resources Act*;

1930, c. 41.

(ix) *The Saskatchewan Natural Resources Act*; and

1942-43, c. 15.

(x) *The Maritime Provinces Additional Subsidies Act, 1942*; and

“value of
gross national
product.”

(c) “value of gross national product” in any year means the total value at market prices of all goods and services produced in Canada in the said year for the use of consumers or for inclusion in new capital and equipment, as estimated by the Dominion Statistician by adding together the shares of that total value which represent wages, salaries, incomes received in kind, incomes of individual enterprise, rents, interest, taxes, depreciation, profits, and other forms of income, and by such other methods as are generally recognized as the accepted statistical techniques for estimating the said value.

(2) For the purposes of an agreement the population of a Province or of Canada for any year in which a census thereof was taken means the said population as ascertained by the census, and for any other year means the said population as estimated by the Dominion Statistician in such manner as may be agreed upon.

Population
how
determined.

AGREEMENTS.

3. (1) The Minister of Finance, with the approval of the Governor in Council may, on behalf of the Government of Canada, enter into an agreement with the Government of any of the Provinces of Canada to provide, in accordance with and subject to such terms and conditions as may be so approved, that the Government of Canada will pay compensation, not exceeding the amount hereinafter authorized, to the Government of the Province if the Government of the Province and the municipalities in that Province,—

Minister of
Finance may
enter into
agreements
with
provinces.

(a) refrain from levying personal income taxes, corporation income taxes and corporation taxes as defined in the agreement in respect of the period of five years commencing on the first day of January, nineteen hundred and forty-seven, and ending on the thirty-first day of December, nineteen hundred and fifty-one, or any lesser period ending on the said thirty-first day of December; and

(b) refrain from levying succession duties as defined in the agreement in respect of successions or transmissions consequent upon, or on property passing upon any death occurring during the period of five years commencing on the first day of April, nineteen hundred and forty-seven, and ending on the thirty-first day of March, nineteen hundred and fifty-two, or any lesser period ending on the said thirty-first day of March.

(2) Notwithstanding anything contained in subsection one of this section, an agreement may provide that the Government of the Province may,

Further
provisions.

(a) levy or empower a municipality to levy income tax or corporation income tax on income earned during the whole or any part of the period mentioned in paragraph (a) of subsection one derived from mining operations or on income so earned derived from logging operations as defined in the agreement;

(b) impose corporation income tax, in such manner as may be agreed upon, at a rate of five per centum on income of corporations earned during the whole or any part of the period mentioned in paragraph (a) of subsection one attributable to their operations in that Province, but in such case provision shall be made in the agreement that there be deducted from the amount of compensation otherwise payable to the Government of the Province, an amount not less than the amount of the corporation income tax assessed and collected by or on behalf of the Government of the Province in respect of the said income of the said period or part thereof; and

(c) impose succession duties in respect of deaths occurring during the whole or any part of the period mentioned in paragraph (b) of subsection one but in such case provision shall be made in the agreement that there be deducted from the amount of compensation otherwise payable to the Government of the Province, an amount not less than the amount allowed by the Government of Canada as a deduction from succession duties imposed by the Government of Canada on successions consequent upon the deaths of persons occurring during the said period or part thereof, in respect of succession duties paid to the Government of the Province on successions or transmissions consequent upon, or on property passing upon the said deaths.

Terms or
conditions
may be
amended.

(3) The Minister of Finance, with the approval of the Governor in Council may, on behalf of the Government of Canada, enter into an agreement, not inconsistent with the provisions of this Act, amending the terms or conditions of an agreement.

Compensa-
tion payable.

4. (1) Subject to subsection two of section three of this Act, the compensation payable by the Government of Canada to the Government of a Province under an agreement shall be an annual amount payable in respect of each of the fiscal years in respect of which the agreement is entered into, which annual amount shall not exceed the amount by which

(a) the guaranteed minimum annual amount herein fixed for that Province or,

(b) the adjusted annual amount calculated as hereinafter provided with reference to the said guaranteed minimum annual amount for that Province,

whichever is greater, exceeds the amount payable by the Government of Canada to the Government of that Province in respect of statutory subsidies during the fiscal year in respect of which the annual amount of compensation is payable.

Limitation.

(2) The amount of compensation payable by the Government of Canada to the Government of a Province under an agreement in respect of a part of a year shall not exceed that proportion of the amount that would have been payable in respect of the whole of the year, if the agreement had been entered into with respect to the whole of the year, that the part of the year is of the whole of the said year.

Guaranteed
minimum
annual
amount.

(3) The guaranteed minimum annual amount of compensation payable under an agreement with the Government of a Province shall not exceed the respective amounts and in respect to the several named Provinces, as follows:—

Alberta.....	\$ 14,227,882
British Columbia.....	18,120,124
Manitoba.....	13,540,038
New Brunswick.....	8,773,420
Nova Scotia.....	10,870,140
Ontario.....	67,158,027
Prince Edward Island.....	2,100,000
Quebec.....	56,382,127
Saskatchewan.....	15,291,490.

(4) The adjusted annual amount payable under an agreement with the Government of any Province shall not exceed the amount that is the average of amounts for each of the three calendar years immediately preceding the fiscal year in respect of which payment is to be made, the amount for each such calendar year being the greater of the two following amounts, namely,—

Adjusted
annual
amount.

(a) the guaranteed minimum annual amount for that Province fixed herein or

(b) the amount that is the product of the guaranteed minimum annual amount for that Province, multiplied by the product obtained by multiplying

(i) the ratio that the value of the gross national product per capita in that calendar year bears to the said value in the calendar year nineteen hundred and forty-two

by

(ii) the ratio that the population of that Province for the calendar year bears to the said population for the calendar year nineteen hundred and forty-two,

the said ratios to be computed as provided in the agreement.

5. An agreement may provide that, in addition to any other amount payable thereunder, there will be paid to the Government of a Province that was a party to a wartime tax agreement entered into under *The Dominion-Provincial Taxation Agreement Act, 1942*, which wartime tax agreement terminated prior to the thirty-first day of March, nineteen hundred and forty-seven, additional payments in respect of the period beginning on the day following the termination of the wartime tax agreement and ending on the said thirty-first day of March, in an aggregate amount not exceeding the proportion of the guaranteed minimum annual amount for that Province fixed herein that is the same as the proportion that the number of months between the date of termination of the wartime tax agreement and the said thirty-first day of March, is of twelve.

Additional
payments.

1942-43, c. 13.

CORPORATION INCOME TAX COLLECTION AGREEMENTS.

6. (1) Notwithstanding anything contained in the *Income War Tax Act*, the Minister of National Revenue may with the approval of the Governor in Council, on behalf of the Government of Canada, enter into an agreement on such terms and conditions as may be agreed upon, with a Minister of the Crown in the Government of a Province that has entered into an agreement under subsection one of section three, to provide for the collection by officers and employees of Canada, without charge to the Government of the Province, of corporation income taxes mentioned in paragraph (b) of subsection two of section three of this Act levied by the Government of the Province.

Agreement
respecting
collection of
corporation
and income
taxes by
employees of
Canada.

(2) An agreement entered into under this section may provide that a payment collected by officers and employees of Canada from a corporation on account of tax on income of the corporation of any taxation year in respect of which it is liable to

Collection
on account
of both in
certain_ratio.

R.S., c. 97.

tax under the *Income War Tax Act* and under legislation enacted by the Government of a Province as provided by an agreement entered into under subsection one of section three of this Act, either on account of tax under the said Act or on account of tax under the said legislation, shall as between the Government of Canada and the Government of the Province be deemed to be paid on account of both of the said taxes in the ratio which the tax finally assessed therefor under the said Act bears to the tax finally assessed therefor under the said legislation, irrespective of whether the corporation appropriated the payment to either tax in whole or in part.

Payments
to provinces.

(3) Any amounts collected by officers and employees of Canada pursuant to this section under legislation enacted by the Government of the Province, shall be paid to the Government of the Province on whose behalf the moneys were collected at such times and under such terms and conditions as may be agreed upon.

SHARE OF INCOME TAX ON SPECIFIED CORPORATIONS.

Payments
respecting
Income Tax
on specified
corporations.

7. (1) Subject to the provisions of this section, the Minister of Finance may, at such time or times as he may determine, pay to the Government of each Province, amounts hereinafter specified, in respect of income tax collected from corporations whose main business is the distribution to or generation for distribution to the public of electrical energy, gas or steam in respect of income of the corporations derived from the said distribution or generation in the province to which payment is made during the whole or any part of the period commencing on the first day of January, nineteen hundred and forty-seven, and ending on the thirty-first day of December, nineteen hundred and fifty-one.

Limitation.

(2) The amount that may be paid by the Minister of Finance under this section in respect of income tax collected on income of any taxation year of a corporation shall not exceed the amount remaining after deducting from such amount as is determined by the Minister of National Revenue to be one-half of the said tax collected on that part of the said income that was derived from distribution to or generation for distribution to the public of electrical energy, gas or steam in the Province to which payment is made, the following amounts:—

- (a) the amount by which any royalties and rentals of a class that were payable by the corporation on the first day of July, nineteen hundred and forty-seven, paid by the corporation to the Government of the Province during the taxation year, exceed the amount that would have been so payable during that taxation year if the rates in force on that date were in force during the taxation year;
- (b) the amount of any other royalties and rentals paid by the corporation to the said Government during the said taxation year; and
- (c) the amount of all taxes and fees paid by the corporation to the Government of the Province or to a municipality in the Province during the said taxation year

that in the opinion of the Minister of National Revenue are attributable to the distribution to or generation for distribution to the public by the corporation of electrical energy, gas or steam, and of all taxes or fees imposed on the use or consumption of electrical energy, gas or steam collected by the corporation during the taxation year on behalf of the said Government or of a municipality which in the opinion of the said Minister are not part of a sales tax of general application: Provided that there shall not be required to be deducted under this paragraph any amount in respect of

Proviso.

- (i) taxes on net income or gross revenues or receipts of the corporation levied by the Province or a municipality in accordance with the terms of an agreement entered into under section three of this Act between the Government of the Province and the Government of Canada, or
- (ii) any other taxes or fees (not including taxes on net income or gross revenues or receipts of the corporation or on use or consumption aforesaid collected as aforesaid) that may be levied by a province or municipality under the terms of any agreement entered into under the said section three between the Government of any Province and the Government of Canada.

(3) The Minister of National Revenue may, for the purposes of this section, determine whether the main business of a corporation is the distribution to or generation for distribution to the public of electrical energy, gas or steam and the proportion of the income of corporation in any taxation year that is derived from such distribution or generation in any Province.

Discretion of Minister.

(4) For the purposes of this section distribution to or generation for distribution to the public by a corporation of electrical energy, gas or steam does not include distribution or generation for distribution to,

Certain distribution and generation not included.

- (a) another corporation controlled by the first mentioned corporation;
- (b) another corporation that controls the first mentioned corporation; or
- (c) another corporation that is controlled by persons who control the first mentioned corporation.

(5) Where part only of a taxation year of a corporation falls within the period mentioned in this section, the amount payable in respect of that part of the taxation year shall be that proportion of the amount that might be payable for the whole of the taxation year computed in accordance with the preceding subsections of this section, that the number of days in the said part of the taxation year is of the number of days in the taxation year.

Proportionate amounts payable.

(6) For the purposes of this section, a person is deemed to control a corporation if he owns more than fifty per centum of the shares of the corporation that have full voting rights in all circumstances.

APPROPRIATION.

Amount payable a charge upon Consolidated Revenue Fund.

S. (1) The amount payable to the Government of any Province pursuant to an agreement or that may be payable under section seven of this Act, shall be a charge upon the Consolidated Revenue Fund of Canada and may be paid out of any unappropriated moneys forming part thereof at such time and in such manner as may be set out in the agreement or otherwise as the Minister of Finance may determine.

Payments under section 5.

(2) Any payment made under the authority of section five of this Act shall be accounted for and charged as an expenditure during the fiscal year ending on the thirty-first day of March, nineteen hundred and forty-seven.

BOUNDARIES

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THE ONTARIO BOUNDARIES EXTENSION ACT.

2 GEORGE V, CHAPTER 40.

An Act to extend the Boundaries of the Province of Ontario.⁽¹⁷³⁾

[Assented to 1st April, 1912.]

Preamble.

WHEREAS, on the thirteenth day of July, one thousand nine hundred and eight, the House of Commons resolved that the limits of the province of Ontario should be increased by the extension of the boundaries of the province so as to include the territory hereinafter described, as in the said resolution is more particularly set out, upon such terms and conditions as may be agreed to by the Legislature of Ontario and by the Parliament of Canada: Therefore, subject to the consent of the said Legislature, His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title.

1. This Act may be cited as *The Ontario Boundaries Extension Act*.

Boundaries extended.

2. The limits of the province of Ontario are hereby increased so that the boundaries thereof shall include, in addition to the present territory of the said province, the territory bounded and described as follows:—Commencing at the most northerly point of the western boundary of the province of Ontario as determined by “The Canada (Ontario Boundary) Act, 1889,” chapter 28 of the statutes of 1889 of the United Kingdom (the said westerly boundary being the easterly boundary of the province of Manitoba); thence continuing due north along the same meridian to the intersection thereof with the centre of the road allowance on the twelfth base line of the system of Dominion Land Surveys; thence north-easterly in a right line to the most eastern point of Island lake, as shown in approximate latitude 53° 30' and longitude 93° 40' on the railway map of the Dominion of Canada, published, on the scale of thirty-five miles to one inch, in the year one thousand nine hundred and eight, by the authority of the Minister of the Interior; thence northeasterly in a right line to the point where the eighty-ninth meridian of west longitude intersects the southern shore of Hudson bay; thence easterly and southerly following the shore of the said bay to the point where the northerly boundary of the province of Ontario as established under the said Act intersects the shore of James bay; thence

U.K. 1889,
c. 28.

⁽¹⁷³⁾ See The Canada (Ontario Boundary) Act, 1889, chapter 28 of the statutes of 1889 of the United Kingdom, *also* The British North America Act, 1871 (ch. 28) which declared that the Parliament of Canada may from time to time, with the consent of the legislature of any province, increase, diminish or otherwise alter the limits of such province.

westward along the said boundary as established by the said Act to the place of commencement; and all the land embraced by the said description shall, from and after the commencement of this Act, be added to the province of Ontario, and shall, from and after the said commencement, form and be part of the said province of Ontario, upon the following terms and conditions and subject to the following provisions:—

- (a) That the province of Ontario will recognize the rights of the Indian inhabitants in the territory above described to the same extent, and will obtain surrenders of such rights in the same manner, as the Government of Canada has heretofore recognized such rights and has obtained surrender thereof, and the same province shall bear and satisfy all charges and expenditure in connection with or arising out of such surrenders; Indian rights in new territory.
- (b) That no such surrender shall be made or obtained except with the approval of the Governor in Council; Surrenders.
- (c) That the trusteeship of the Indians in the said territory, and the management of any lands now or hereafter reserved for their use, shall remain in the Government of Canada subject to the control of Parliament. Trusteeship.

3. Nothing in this Act shall in any way prejudice or affect the rights or properties of the Hudson's Bay Company as contained in the conditions under which that company surrendered Ruperts Land to the Crown. Hudson's Bay Co. rights preserved.

4. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council in *The Canada Gazette*, but such proclamation shall not be made until after the Legislature of Ontario shall have consented to the increase of the limits of the province herein provided for, and agreed to the terms, conditions and provisions aforesaid. Commencement of Act.
Consent of Ontario legislature.

THE QUEBEC BOUNDARIES EXTENSION ACT, 1912.

2 GEORGE V, CHAPTER 45.

An Act to extend the Boundaries of the Province of Quebec.⁽¹⁷⁴⁾

[Assented to 1st April, 1912.]

Preamble.

WHEREAS on the thirteenth day of July, one thousand nine hundred and eight, the House of Commons resolved that the limits of the province of Quebec should be increased by the extension of the boundaries of the province northwards so as to include the territory hereinafter described, as in the said resolution is more particularly set out, upon such terms and conditions as may be agreed to by the Legislature of Quebec and by the Parliament of Canada: Therefore, subject to the consent of the said Legislature, His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title.

1. This Act may be cited as *The Quebec Boundaries Extension Act, 1912*.

Boundaries
extended.

2. The limits of the province of Quebec are hereby increased so that the boundaries thereof shall include, in addition to the present territory of the said province, the territory bounded and described as follows:—Commencing at the point at the mouth of East Main river where it empties into James bay, the said point being the western termination of the northern boundary of the province of Quebec as established by chapter 3 of the statutes of 1898, intituled *An Act respecting the north-western, northern and north-eastern boundaries of the province of Quebec*; thence northerly and easterly along the shores of Hudson bay and Hudson strait; thence southerly, easterly and northerly along the shore of Ungava bay and the shore of the said strait; thence easterly along the shore of the said strait to the boundary of the territory over which the island of Newfoundland has lawful jurisdiction; thence south-easterly along the westerly boundary of the said last mentioned territory to the middle of the Bay du Rigolet or Hamilton Inlet; thence westerly along the northern boundary of the province of Quebec as established by the said Act to the place of commencement; and all the land embraced by the said description shall, from and after the commencement of this Act, be added to the province of Quebec, and shall, from and after the said commencement, form and be part of the said province of Quebec upon the following terms and conditions and subject to the following provisions:—

1898, c. 3.

⁽¹⁷⁴⁾ See The British North America Act, 1871 (referred to in the preceding note), also chapter 3 of the statutes of 1898, and also chapter 6 of the statutes of Quebec, 1898.

- | | |
|--|--|
| <p>[(a) That the population of the territory hereby added to the province of Quebec shall be excluded in ascertaining the population of the said province for the purposes of any readjustment of representation of the other provinces consequent upon any census;</p> | <p>Population as affecting representation.</p> |
| <p>(b) That in the general census of the population of Canada which is required to be taken in the year one thousand nine hundred and twenty-one and in every tenth year thereafter the population of the territory hereby added to the province of Quebec shall be distinguished from that of the said province as heretofore constituted, and the representation of the said territory in the House of Commons shall be determined according to the rules enacted by section 51 of "The British North America Act, 1867," regulating the representation of the provinces other than Quebec;]⁽¹⁷⁵⁾</p> | <p>Population under decennial census.</p> <p>Paragraphs (a) and (b) repealed by 1946, c. 29.</p> <p>B.N.A. Act, s. 51.</p> |
| <p>(c) That the province of Quebec will recognize the rights of the Indian inhabitants in the territory above described to the same extent, and will obtain surrenders of such rights in the same manner, as the Government of Canada has heretofore recognized such rights and has obtained surrender thereof, and the said province shall bear and satisfy all charges and expenditures in connection with or arising out of such surrenders;</p> | <p>Indian rights of new territory.</p> |
| <p>(d) That no such surrender shall be made or obtained except with the approval of the Governor in Council;</p> | <p>Surrenders.</p> |
| <p>(e) That the trusteeship of the Indians in the said territory, and the management of any lands now or hereafter reserved for their use, shall remain in the Government of Canada subject to the control of Parliament.</p> | <p>Trusteeship.</p> |

3. Nothing in this Act shall in any way prejudice or affect the rights or properties of the Hudson's Bay Company as contained in the conditions under which that company surrendered Ruperts Land to the Crown.

Hudson's Bay Co. rights preserved.

4. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council published in *The Canada Gazette*, but such proclamation shall not be made until after the Legislature of Quebec shall have consented to the increase of the limits of the province herein provided for, and agreed to the terms, conditions and provisions aforesaid.

Commencement of Act.

Consent of Quebec legislature.

⁽¹⁷⁵⁾ Paragraphs (a) and (b) of section two have been repealed by section one of chapter 29 of the statutes of 1946 which follows immediately.

10 GEORGE VI, CHAPTER 29.

An Act to amend The Quebec Boundaries Extension Act, 1912.⁽¹⁷⁶⁾

[Assented to 26th July, 1946.]

1912, c. 45.

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Paragraphs repealed.

1. Paragraphs (a) and (b) of section two of *The Quebec Boundaries Extension Act, 1912*, chapter forty-five of the statutes of 1912, are repealed.

Coming into force.

2. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council published in the *Canada Gazette*, but such proclamation shall not be made until the Legislature of Quebec agrees to the said repeal of paragraphs (a) and (b) of section two of the said Act.

⁽¹⁷⁶⁾ The paragraphs repealed read as follows:—

“(a) That the population of the territory hereby added to the province of Quebec shall be excluded in ascertaining the population of the said province for the purposes of any readjustment of representation of the other provinces consequent upon any census;

“(b) That in the general census of the population of Canada which is required to be taken in the year one thousand nine hundred and twenty-one and in every tenth year thereafter the population of the territory hereby added to the province of Quebec shall be distinguished from that of the said province as heretofore constituted, and the representation of the said territory in the House of Commons shall be determined according to the rules enacted by section 51 of “The British North America Act, 1867,” regulating the representation of the provinces other than Quebec;”

THE MANITOBA BOUNDARIES EXTENSION ACT, 1912.

2 GEORGE V, CHAPTER 32.

An Act to provide for the extension of the Boundaries
of the Province of Manitoba.

[Assented to 1st April, 1912.]

WHEREAS, on the thirteenth day of July, one thousand nine hundred and eight, the House of Commons resolved that the limits of the province of Manitoba should be increased by the extension of the boundaries of the province northward to the sixtieth parallel of latitude and north-eastward to the shores of Hudson Bay, as in the said resolution is more particularly set out, upon such terms and conditions as may be agreed to by the Legislature of Manitoba and by the Parliament of Canada;

Preamble.

And whereas it is desirable that the financial terms applicable to the said province, as altered by the increase of territory, aforesaid, should be on a basis of substantial equality with the financial terms enjoyed by each of the provinces of Saskatchewan and Alberta under *The Saskatchewan Act* and *The Alberta Act*, respectively, inasmuch as the areas of these respective provinces is approximately equal to that of the province of Manitoba as by this Act increased, and inasmuch as each of the said three provinces at the time of its establishment as a province was without public debt, and inasmuch as the Crown lands, mines and minerals and royalties incident thereto in the province of Manitoba are, as is the case in the other two said provinces, vested in the Crown and administered by the Government of Canada for the purposes of Canada: Therefore, subject to the consent of the Legislature of Manitoba, His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1905, c. 42.
1905, c. 3.

SHORT TITLE.

1. This Act may be cited as *The Manitoba Boundaries Extension Act, 1912.*

Short title.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- (a) “the province” means the province of Manitoba;
- (b) “the Government” means His Majesty the King acting in respect of the Dominion of Canada by and through the Governor General in Council.
- Interpreta-
tion.
“province.”
“Govern-
ment.”

BOUNDARIES.

Boundaries
extended.

U.K., 1880,
c. 28.

3. The limits of the province are hereby increased so that the boundaries of the province shall be as follows: Commencing where the sixtieth parallel of north latitude intersects the western shore of Hudson Bay; thence westerly along the said parallel of latitude to the northeast corner of the province of Saskatchewan; thence southerly along the easterly boundary of the province of Saskatchewan to the international boundary dividing Canada from the United States; thence easterly along the said international boundary to the point where the said international boundary turns due north; thence north along the said international boundary to the most northerly point thereof at or near the northwest angle of the Lake of the Woods; thence continuing due north along the westerly boundary of the province of Ontario, by virtue of "The Canada (Ontario Boundary) Act, 1889," chapter 28 of the statutes of 1889 of the United Kingdom, (the said westerly boundary being the easterly boundary of the province of Manitoba) to the most northerly point of the said boundary common to the two provinces under the said Act; thence continuing due north along the same meridian to the intersection thereof with the centre of the road allowance on the twelfth base line of the system of Dominion Land Surveys; thence northeasterly in a right line to the most easterly point of Island Lake, as shown in approximate latitude $53^{\circ} 30'$ and longitude $93^{\circ} 40'$ on the railway map of the Dominion of Canada published, on the scale of thirty-five miles to one inch, in the year one thousand nine hundred and eight, by the authority of the Minister of the Interior; thence northeasterly in a right line to the point where the eightyninth meridian of west longitude intersects the southern shore of Hudson Bay; thence westerly and northerly following the shores of the said Bay to the place of commencement; and all the land embraced by the said description not now within the province of Manitoba, shall, from and after the commencement of this Act, be added thereto and the whole shall, from and after the said commencement, form and be the province of Manitoba.

FINANCIAL PROVISIONS.

Annual pay-
ment to
province.

4. Inasmuch as the province was not in debt at the time the province was established, it shall be entitled to be paid and to receive from the Government of Canada, by half-yearly payments in advance on the first day of January and July in each year an annual sum of three hundred and eighty-one thousand five hundred and eighty-four dollars and nineteen cents, being the equivalent of interest at the rate of five per cent per annum on the sum of seven million six hundred and thirty-one thousand six hundred and eighty-three dollars and eighty-five cents, the difference between a principal sum of eight million, one hundred and seven thousand five hundred dollars and the sum of four hundred and seventy-five thousand eight hundred and sixteen dollars and fifteen cents heretofore advanced by the Government to the province for provincial purposes.

2. This section shall be held to have come into force on the first day of July, one thousand nine hundred and eight, and shall have effect as if the first half-yearly payment thereunder was due to be made on that date. Commence-
ment of
section.
3. There shall be deducted from the aggregate of the sums payable under this section at the commencement of this Act all sums received on and after the first day of July, one thousand nine hundred and eight, by the province from the Government by way of interest on capital allowance in lieu of debt. Deduction of
interest on
capital
allowance.
5. Inasmuch as under the provisions of this Act the province will not have the public land as a source of revenue, there shall, subject to the provisions hereinafter set out, be paid out by the Government to the province, by half-yearly payments in advance, on the first days of January and July in each year, an annual sum based upon the population of the province as from time to time ascertained by the quinquennial census thereof, as follows:—

The population of the province being assumed to be on the first day of July, nineteen hundred and eight, over four hundred thousand, the sum payable until such population reaches eight hundred thousand shall be five hundred and sixty-two thousand five hundred dollars;

Thereafter until such population reaches one million two hundred thousand, the sum payable shall be seven hundred and fifty thousand dollars;

And thereafter the sum payable shall be one million one hundred and twenty-five thousand dollars. Compensa-
tion to
province for
public lands.
2. Section 1 of chapter 50 of the statutes of 1885 is repealed, and all lands (known as swamp lands) transferred to the province under the said section 1, and not sold by the province prior to the time at which the terms and conditions of this Act have been agreed to by the Legislature of the province, shall be re-transferred to the Government. 1885, c. 50
amended.

Transfer of
swamp lands
to Govern-
ment.
3. The sums payable to the province under subsection 1 of this section shall be subject to a deduction at the rate of five per cent per annum upon the difference between the aggregate of the sums for which the said swamp lands were sold by the province and the aggregate of the sums from time to time charged to the province by the Government in connection with the selection, survey and transfer of such lands and of the sums expended by the province which may be fairly chargeable to the administration and sale of such swamp lands. Deduction
respecting
swamp lands.
4. The difference referred to in the next preceding subsection shall be determined by the Governor in Council after audit on behalf of the Government. Determina-
tion of
amount.
5. The sums payable to the province under subsection 1 of this section shall also be subject to a deduction by reason of the allotment of land, to the extent of one hundred and fifty thousand acres, granted as an endowment to the University of Manitoba under section 2 of chapter 50 of the statutes of 1885, to wit, to a deduction of five per cent per annum upon the sum of three hundred thousand dollars. Deduction
respecting
lands granted
to Manitoba
University.

Commence-
ment of
payments
under s-s. 1.

6. This section shall be held to have come into force, in so far as the provisions directing and affecting the half-yearly payments in advance under subsection 1 of this section are concerned, on the first day of July, nineteen hundred and eight, and shall have effect as if the first half-yearly payment thereunder was due to be made on that date.

Deductions
respecting
indemnity in
lieu of public
lands.

7. There shall be deducted from the aggregate of the sums payable under the next preceding subsection at the commencement of this Act all sums received on and after the first day of July, nineteen hundred and eight, by the province from the Government on account of indemnity in lieu of public lands.

Allowance for
provincial
public
buildings.

8. As an additional allowance in lieu of public land, there shall be paid by the Government to the province, one-half on the first day of July, nineteen hundred and twelve, and one-half on the first day of July, nineteen hundred and thirteen, to assist in providing for the construction of necessary public buildings, two hundred and one thousand seven hundred and twenty-three dollars and fifty-seven cents, a sum equal to the difference between the total payments made by the Government to each of the provinces of Saskatchewan and Alberta, under *The Saskatchewan Act* and *The Alberta Act*, respectively, for the like purposes and the sums already paid by the Government on account of the construction of the Legislative Buildings and the Government House at Winnipeg.

RIGHTS OF CROWN.

Crown lands,
minerals and
waters.

6. All Crown lands, mines and minerals and royalties incident thereto in the territory added to the province under the provisions of this Act, and the interest of the Crown under *The Irrigation Act* in the waters within such territory, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, subject to the provisions of any Act of the Parliament of Canada with respect to road allowances and roads or trails in force immediately before the coming into force of this Act.

REPRESENTATION IN THE SENATE.

Senate
representa-
tion.

7. The province shall continue to be represented in the Senate of Canada by four members; provided that such representation may, after the completion of the decennial census of June, nineteen hundred and eleven, be from time to time increased to six by the Parliament of Canada.

COMMENCEMENT OF ACT.

Commence-
ment
of Act.

8. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council published in *The Canada Gazette*, but such proclamation shall not be made until after the Legislature of Manitoba shall have consented to the increase of the limits of the province herein provided for, and agreed to the terms, conditions and provisions aforesaid.

THE MANITOBA BOUNDARIES EXTENSION ACT, 1930.

20-21 GEORGE V, CHAPTER 28.

An Act to provide for the extension of the boundary of the Province of Manitoba in the Northwest Angle Inlet of Lake of the Woods.

[Assented to 10th April, 1930.]

WHEREAS in and by virtue of Article I of the Treaty between His Britannic Majesty in respect of the Dominion of Canada and the United States of America for the further demarcation of the boundary between Canada and the United States of America, signed at Washington on the twenty-fourth day of February, 1925, the two parcels of land hereinafter described, situate, lying and being in the Northwest Angle Inlet of Lake of the Woods became the property of Canada; Preamble.

And whereas the said parcels of land are situate within the boundaries of lands added to the Province of Manitoba by the *Manitoba Boundaries Extension Act, 1912*.

And whereas in pursuance of section three of *The British North America Act, 1871*, the Legislature of the Province of Manitoba has passed an Act, entitled, "An Act to provide for the extension of the Boundary of the Province of Manitoba in the Northwest Angle Inlet of Lake of the Woods," being chapter three of the Statutes of 1928, consenting to the increase in the limits of the said province;

And whereas it is expedient that the said parcels of land be added to and form part of the Province of Manitoba;

Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as *The Manitoba Boundaries Extension Act, 1930*. Short title.

2. The pieces or parcels of land hereinbefore mentioned and more particularly described in the Schedule hereto, shall from and after the passing of this Act be added to and form part of the Province of Manitoba. Boundaries extended.

SCHEDULE.

PARCEL A.

All and Singular, that certain piece or parcel of land covered by water, situate, lying and being in the Northwest Angle Inlet of Lake of the Woods and particularly described as follows: Commencing at a point, the second intersection from the south of the meridian through International Boundary Monument

number nine hundred and twenty-five with the middle thread of the Northwest Angle Inlet of Lake of the Woods, said point being north two thousand nine hundred and four feet, more or less, of said International Boundary Monument number nine hundred and twenty-five, thence due north along the said meridian four hundred and seventy feet, more or less, to the third intersection from the south of the said meridian with the said middle thread of the said Northwest Angle Inlet of Lake of the Woods, thence following the sinuosities of the said middle thread of the said Northwest Angle Inlet of Lake of the Woods southerly a distance of seven hundred feet, more or less, to the place of beginning, containing by admeasurement two acres, be the same more or less.

PARCEL B.

All and Singular, that certain piece or parcel of land covered by water, situate, lying and being in the Northwest Angle Inlet of Lake of the Woods and particularly described as follows: Commencing at a point, the fourth intersection from the south of the meridian through International Boundary Monument number nine hundred and twenty-five with the middle thread of the Northwest Angle Inlet of Lake of the Woods, said point being north three thousand seven hundred and twenty feet, more or less, of said International Boundary Monument number nine hundred and twenty-five, thence due north along the said meridian two hundred and ninety feet, more or less, to the fifth intersection from the south of the said meridian with the said middle thread of the said Northwest Angle Inlet of Lake of the Woods, thence following the sinuosities of the said middle thread of the said Northwest Angle Inlet of Lake of the Woods southerly a distance of three hundred and twenty-five feet, more or less to the place of beginning, containing by admeasurement one half acre, be the same more or less.

THE ALBERTA-BRITISH COLUMBIA BOUNDARY ACT, 1932.

22-23 GEORGE V, CHAPTER 5.

An Act respecting the Boundary between the Provinces
of Alberta and British Columbia.⁽¹⁷⁷⁾

[Assented to 4th April, 1932.]

WHEREAS by Order in Council P.C. 337, approved on the eighteenth day of February, 1913, an invitation was extended by the Government of the Dominion of Canada to the Governments of the Provinces of Alberta and British Columbia to participate in the joint survey of the boundary line between the Province of Alberta and the Province of British Columbia; And whereas the said invitation was accepted by the Government of the Province of Alberta by Order in Council No. 534-13, approved on the sixteenth day of June, 1913, and by the Government of the Province of British Columbia by Order in Council No. 812, approved on the second day of June, 1913; And whereas by Order in Council approved on the eleventh day of July, 1913, J. N. Wallace, D.L.S., was appointed Boundary Commissioner to represent the Dominion on the joint survey of the boundary line, and whereas by Order in Council, approved on the twentieth day of September, 1915, R. W. Cautley, D.L.S., was appointed Boundary Commissioner to represent the Dominion in the place of the said J. N. Wallace; And whereas A. O. Wheeler, B.G.L.S., as Commissioner for the Province of British Columbia, with the said J. N. Wallace, as Commissioner for the Dominion up to the twentieth day of September, 1915, and the said R. W. Cautley, as Commissioner for the Province

Preamble.

B.C., 1931,
c. 8; Alberta,
1931, c. 6.

⁽¹⁷⁷⁾ The object of this Act was to ratify and confirm the boundary as surveyed and marked upon the ground by the Interprovincial Boundary Commission between the Provinces of Alberta and British Columbia as the true boundary, whether or not the same increased, diminished or otherwise altered the territory of the respective Provinces.

The Commission carried on the survey of the Boundary continuously from 1913 to 1924, at which time the Rocky Mountain section of the Boundary had been completed, together with 252 miles of the 120th Meridian survey to a point in Latitude 57° 26' 40". At this point the Government decided to discontinue the survey for the time being, there being about 174 miles of the 120th Meridian still to be surveyed through uninhabited and unproductive country.

The work of the Commission was done in such a way as to earn the complete confidence in its technical accuracy of the Surveyors General of the Dominion and British Columbia and the Director of Surveys for Alberta.

The report of the Commission, including an Atlas of Maps, was issued in three parts, signed copies of which were transmitted to the Governments of Alberta and British Columbia, as well as being of record in the Topographical Survey of the Department of the Interior.

The object of the survey was not only to delimit the Boundary on the ground but also to establish the surveyed Boundary as the true and unalterable Boundary between the two Provinces according to law so that no possible dispute in regard to its position can arise in the future.

Acts were passed by the Legislatures of Alberta and British Columbia consenting to the confirmation of this Boundary by the Parliament of the Dominion. Alberta, 1931, c. 6; British Columbia, 1931, c. 8.

of Alberta and, after the twentieth day of September, 1915, for the Dominion as well, did subsequently enter upon the work of the joint survey of the said boundary line and did complete the same in or about the year 1924 from the International Boundary on the forty-ninth parallel of north latitude, northerly to a point on the one hundred and twentieth meridian of west longitude in or about latitude north fifty-seven degrees, twenty-six minutes, and forty and twenty-five one hundredths seconds; And whereas the said Commissioners have made due report of their said survey, and have caused the line indicating the boundary between the said Provinces to the extent aforesaid to be surveyed and marked upon the ground and to be duly laid down upon maps signed by them as such Commissioners, which said reports and maps have been printed and copies thereof deposited in the office of the Surveyor-General of the Dominion in the Department of the Interior; And whereas by section three of *The British North America Act, 1871*, it was enacted that the Parliament of the Dominion of Canada may from time to time, with the consent of the Legislature of any Province of the Dominion, increase, diminish or otherwise alter the limits of the Province, upon such terms and conditions as may be agreed upon by the said Legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution or alteration of territory in relation to any Province affected thereby; And whereas the said Provinces have given their consent, by Acts of their respective Legislatures passed in the year nineteen hundred and thirty-one, to the establishment of the above mentioned boundary line, and it is expedient that the said line so surveyed, marked and laid down should be established to the extent aforesaid as the boundary line between the Province of Alberta and the Province of British Columbia: Therefore, His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title.

1. This Act may be cited as *The Alberta-British Columbia Boundary Act, 1932*.

Boundary line.

2. The line so surveyed, marked and laid down in the manner referred to in the preamble to this Act, to the extent thereof, is hereby declared to be the boundary line between the Province of Alberta and the Province of British Columbia, whether or not the same increases, diminishes, or otherwise alters the territory of either Province.

NATURAL RESOURCES

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THE ALBERTA NATURAL RESOURCES ACT.

20-21 GEORGE V, CHAPTER 3.

An Act respecting the transfer of the Natural Resources of Alberta.

[Assented to 30th May, 1930.]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title. **1.** This Act may be cited as *The Alberta Natural Resources Act*.

Agreement confirmed. **2.** The agreement set out in the schedule hereto is hereby
Proviso. approved, subject to the proviso that, in addition to the rights accruing hereunder to the province of Alberta, the said province shall be entitled to such further rights, if any, with respect to the subject matter of the said agreement as are required to be vested in the said province in order that it may enjoy rights equal to those which may be conferred upon or reserved to the province of Saskatchewan under any agreement upon a like subject matter hereafter approved and confirmed in the same manner as the said agreement.

SCHEDULE.

MEMORANDUM OF AGREEMENT.

Made this fourteenth day of December, 1929,

BETWEEN

THE GOVERNMENT OF THE DOMINION OF CANADA, represented herein by the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF ALBERTA, represented herein by the Honourable John Edward Brownlee, Premier of Alberta, and the Honourable George Hoadley, Minister of Agriculture and Health,

Of the second part.

Whereas by section twenty-one of *The Alberta Act*, being chapter three of four and five Edward the Seventh, it was provided that "All Crown lands, mines and minerals and royalties incident thereto, and the interest of the Crown in the waters within the province under *The North-west Irrigation Act, 1898*, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada,

subject to the provisions of any Act of the Parliament of Canada with respect to road allowances and roads or trails in force immediately before the coming into force of this Act, which shall apply to the said province with the substitution therein of the said province for the North-west Territories”;

And Whereas it is desirable that the Province should be placed in a position of equality with the other provinces of Confederation with respect to the administration and control of its natural resources as from its entrance into Confederation in 1905;

And Whereas it has been agreed between Canada and the said Province that the provisions of *The Alberta Act* should be modified as herein set out;

Now Therefore This Agreement Witnesseth:

TRANSFER OF PUBLIC LANDS GENERALLY.

1. In order that the Province may be in the same position as the original Provinces of Confederation are in virtue of section one hundred and nine of the *British North America Act, 1867*, the interest of the Crown in all Crown lands, mines, minerals (precious and base) and royalties derived therefrom within the Province, and all sums due or payable for such lands, mines, minerals or royalties, shall, from and after the coming into force of this agreement and subject as therein otherwise provided, belong to the Province, subject to any trusts existing in respect thereof, and to any interest other than that of the Crown in the same, and the said lands, mines, minerals and royalties shall be administered by the Province for the purposes thereof, subject, until the Legislature of the Province otherwise provides, to the provisions of any Act of the Parliament of Canada relating to such administration; any payment received by Canada in respect of any such lands, mines, minerals or royalties before the coming into force of this agreement shall continue to belong to Canada whether paid in advance or otherwise, it being the intention that, except as herein otherwise specially provided, Canada shall not be liable to account to the Province for any Payment made in respect of any of the said lands, mines, minerals or royalties before the coming into force of this agreement, and that the Province shall not be liable to account to Canada for any such payment made thereafter.

2. The Province will carry out in accordance with the terms thereof every contract to purchase or lease any Crown lands, mines or minerals and every other arrangement whereby any person has become entitled to any interest therein as against the Crown, and further agrees not to affect or alter any term of any such contract to purchase, lease or other arrangement by legislation or otherwise, except either with the consent of all the parties thereto other than Canada or in so far as any legislation may apply generally to all similar agreements relating to lands, mines or minerals in the Province or to interests therein, irrespective of who may be the parties thereto.

3. Any power or right, which, by any such contract, lease or other arrangement, or by any Act of the parliament of Canada relating to any of the lands, mines, minerals or royalties hereby transferred or by any regulation made under any such Act, is reserved to the Governor in Council or to the Minister of the Interior or any other officer of the Government of Canada, may be exercised by such officer of the Government of the Province as may, be specified by the Legislature thereof from time to time and until otherwise directed, may be exercised by the Provincial Secretary of the Province.

4. The Province will perform every obligation of Canada arising by virtue of the provisions of any statute or order in council or regulation in respect of the public lands to be administered by it hereunder to any person entitled to a grant of lands by way of subsidy for the construction of railways or otherwise or to any railway company for grants of lands for right of way, road bed, stations, station grounds, work-shops, buildings, yards, ballast pits or other appurtenances.

5. The Province will further be bound by and will, with respect to any lands or interests in lands to which the Hudson's Bay Company may be entitled, carry out the terms and conditions of the Deed of Surrender from the said Company to the Crown as modified by the *Dominion Lands Act* and the Agreement dated the 23rd day of December, 1924, between His Majesty and the said Company, which said Agreement was approved by Order in Council dated the 19th day of December, 1924 (P.C. 2158), and in particular the Province will grant to the Company any lands in the Province which the Company may be entitled to select and may select from the lists of lands furnished to the Company by the Minister of the Interior under and pursuant to the said Agreement of the 23rd day of December, 1924, and will release and discharge the reservation in patents referred to in clause three of the said agreement, in case such release and discharge has not been made prior to the coming into force of this agreement. Nothing in this agreement, or in any agreement varying the same as hereinafter provided, shall in any way prejudice or diminish the rights of the Hudson's Bay Company or affect any right to or interest in land acquired or held by the said Company pursuant to the Deed of Surrender from it to the Crown, the *Dominion Lands Act* or the said Agreement of the 23rd day of December, 1924.

SCHOOL LANDS FUND AND SCHOOL LANDS.

6. Upon the coming into force of this agreement, Canada will transfer to the Province the money or securities constituting that portion of the school lands fund, created under sections twenty-two and twenty-three of *The Act to amend and consolidate the several Acts respecting Public Lands of the Dominion*, being chapter thirty-one of forty-two Victoria, and subsequent statutes, which is derived from the disposition of any school lands within the Province or within that part of the Northwest Territories now included within the boundaries thereof.

7. The School Lands Fund to be transferred to the Province as aforesaid, and such of the school lands specified in section

thirty-seven of the *Dominion Lands Act*, being chapter one hundred and thirteen of the Revised Statutes of Canada, 1927, as pass to the administration of the Province under the terms hereof, shall be set aside and shall continue to be administered by the Province in accordance, *mutatis mutandis*, with the provisions of sections thirty-seven to forty of the *Dominion Lands Act*, for the support of schools organized and carried on therein in accordance with the law of the Province.

WATER.

8. Canada agrees that the provision contained in section four of the *Dominion Water Power Act*, being chapter two hundred and ten of the Revised Statutes of Canada, 1927, that every undertaking under the said Act is declared to be a work for the general advantage of Canada, shall stand repealed as from the date of the coming into force of this agreement in so far as the same applies to undertakings within the Province; nothing in this paragraph shall be deemed to affect the legislative competence of the Parliament of Canada to make hereafter any declaration under the tenth head of section ninety-two of the *British North America Act*, 1867.

FISHERIES.

9. Except as herein otherwise provided, all rights of fishery shall, after the coming into force of this agreement, belong to and be administered by the Province, and the Province shall have the right to dispose of all such rights of fishery by sale, licence or otherwise, subject to the exercise by the Parliament of Canada of its legislative jurisdiction over sea-coast and inland fisheries.

INDIAN RESERVES.

10. All lands included in Indian reserves within the Province, including those selected and surveyed but not yet confirmed, as well as those confirmed, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, and the Province will from time to time, upon the request of the Superintendent General of Indian Affairs, set aside, out of the unoccupied Crown lands hereby transferred to its administration, such further areas as the said Superintendent General may, in agreement with the appropriate Minister of the Province, select as necessary to enable Canada to fulfil its obligations under the treaties with the Indians of the Province, and such areas shall thereafter be administered by Canada in the same way in all respects as if they had never passed to the Province under the provisions hereof.

11. The provisions of paragraphs one to six inclusive and of paragraph eight of the agreement made between the Government of the Dominion of Canada and the Government of the Province of Ontario on the 24th day of March, 1924, which said agreement was confirmed by statute of Canada, fourteen and fifteen George the Fifth chapter forty-eight, shall (except

so far as they relate to the *Bed of Navigable Waters Act*) apply to the lands included in such Indian reserves as may hereafter be set aside under the last preceding clause as if the said agreement had been made between the parties hereto, and the provisions of the said paragraphs shall likewise apply to the lands included in the reserves heretofore selected and surveyed, except that neither the said lands nor the proceeds of the disposition thereof shall in any circumstances become administrable by or be paid to the Province.

12. In order to secure to the Indians of the Province the continuance of the supply of game and fish for their support and subsistence, Canada agrees that the laws respecting game in force in the Province from time to time shall apply to the Indians within the boundaries thereof, provided however, that the said Indians shall have the right, which the Province hereby assures to them, of hunting, trapping and fishing game and fish for food at all seasons of the year on all unoccupied Crown lands and on any other lands to which the said Indians may have a right of access.

SOLDIER SETTLEMENT LANDS.

13. All interests in Crown lands in the Province upon the security of which any advance has been made under the provisions of the *Soldier Settlement Act*, being chapter 188 of the Revised Statutes of Canada, 1927, and amending Acts, shall continue to be vested in and administered by the Government of Canada for the purposes of Canada.

NATIONAL PARKS.

14. The parks mentioned in the schedule hereto shall continue as national parks and the lands included therein, as the same are described in the orders in council in the said schedule referred to (except such of the said lands as may be hereafter excluded therefrom), together with the mines and minerals (precious and base) in each of the said parks and the royalties incident thereto, shall continue to be vested in and administered by the Government of Canada as national parks, but in the event of the Parliament of Canada at any time declaring that the said lands or any part thereof are no longer required for park purposes, the lands, mines, minerals (precious and base) and the royalties incident thereto, specified in any such declaration, shall forthwith upon the making thereof belong to the Province, and the provisions of paragraph three of this agreement shall apply thereto as from the date of such declaration.

15. The Parliament of Canada shall have exclusive legislative jurisdiction within the whole area included within the outer boundaries of each of the said parks notwithstanding that portions of such area may not form part of the park proper; the laws now in force within the said area shall continue in force only until changed by the Parliament of Canada or under its authority, provided, however, that all laws of the Province now or hereafter in force, which are not repugnant to any law

or regulation made applicable within the said area by or under the authority of the Parliament of Canada, shall extend to and be enforceable within the same, and that all general taxing acts passed by the Province shall apply within the same unless expressly excluded from application therein by or under the authority of the Parliament of Canada.

16. The Government of Canada will introduce into the Parliament of Canada such legislation as may be necessary to exclude from the parks aforesaid certain areas forming part of certain of the said parks which have been delimited as including the lands now forming part thereof which are of substantial commercial value, the boundaries of the areas to be so excluded having been heretofore agreed upon by representatives of Canada and of the Province, and the Province agrees that upon the exclusion of the said areas as so agreed upon, it will not, by works outside the boundaries of any of the said parks, reduce the flow of water in any of the rivers or streams within to same to less than that which the Minister of the Interior may deem necessary adequately to preserve the scenic beauties of the said parks.

SEED GRAIN, ETC., LIENS.

17. Every lien upon any interest in any unpatented land passing to the Province under this agreement, which is now held by Canada as security for an advance made by Canada for seed grain, fodder or other relief, shall continue to be vested in Canada, but the Province will, on behalf of Canada, collect the sums due in respect of such advances, except so far as the same are agreed to be uncollectible, and upon payment of any such advance, any document required to be executed to discharge the lien may be executed by such officer of the Province as may be authorized by any provincial law in that behalf; the Province will account for and pay to Canada all sums belonging to Canada collected hereunder; subject to such deduction to meet the expenses of collection as may be agreed upon between the Minister of the Interior and the Provincial Secretary or such other Minister of the Province as may be designated in that behalf under the laws thereof.

GENERAL RESERVATION TO CANADA.

18. Except as herein otherwise expressly provided, nothing in this agreement shall be interpreted as applying so as to affect or transfer to the administration of the Province (a) any lands for which Crown grants have been made and registered under the *Lands Titles Act* of the Province and of which His Majesty the King in the right of His Dominion of Canada is, or is entitled to become the registered owner at the date upon which the agreement comes into force, or (b) any ungranted lands of the Crown upon which public money of Canada has been expended or which are, at the date upon which this agreement comes into force, in use or reserved by Canada for the purpose of the federal administration.

HISTORIC SITES, BIRD SANCTUARIES, ETC.

19. The Province will not dispose of any historic site which is notified to it by Canada as such and which Canada undertakes to maintain as an historic site. The Province will further continue and preserve as such the bird sanctuaries and public shooting grounds which have been already established and will set aside such additional bird sanctuaries and public shooting grounds as may hereafter be established by agreement between the Minister of the Interior and the Provincial Secretary or such other Minister of the Province as may be specified under the laws thereof.

FINANCIAL TERMS.

20. In lieu of the provision made by subsection one of section twenty of *The Alberta Act*, Canada will, from and after the date of the coming into force of this agreement, pay to the Province by half-yearly payments in advance, on the first days of January and July in each year, an annual sum based upon the population of the Province as from time to time ascertained by the quinquennial census thereof, as follows:

The sum payable until the population of the said Province reaches eight hundred thousand shall be five hundred and sixty-two thousand five hundred dollars;

Thereafter, until such population reaches one million two hundred thousand, the sum payable shall be seven hundred and fifty thousand dollars;

And thereafter the sum payable shall be one million one hundred and twenty-five thousand dollars.

21. If at the date of the coming into force of this agreement any payment has been made under subsection one of section twenty of *The Alberta Act* in respect of any half-year commencing before but terminating after the said date, a proportionate part of the payment so made shall be taken as having been made under the provisions hereof.

22. It is agreed that the Honourable W. F. A. Turgeon, a Judge of the Court of Appeal of Saskatchewan, Charles M. Bowman, of the Town of Waterloo, in the Province of Ontario, Esquire, Chairman of the Board of Directors of the Mutual Life Assurance Company of Canada, and Fred E. Osborne, Esquire, Mayor of the City of Calgary, or, if any of the foregoing cannot act, then such other person or persons as may be agreed upon, will be appointed commissioners under Part One of the *Inquiries Act* to enquire and report whether any, and, if any, what consideration, in addition to the sums provided in paragraph twenty hereof, should be paid to the Province in order that the Province may be placed in a position of equality with the other Provinces of Confederation with respect to the administration and control of its natural resources as from its entrance

into Confederation in 1905, such commissioners to be empowered to decide what financial or other considerations are relevant to the enquiry, and the report to be submitted to the Parliament of Canada and to the Legislature of Alberta; and if by the said report, the payment of any additional consideration is recommended, then, upon agreement between the Governments of Canada and of the Province following the submission of such report, the said Governments will respectively introduce the legislation necessary to give effect to such agreement.

RECORDS.

23. Canada will, after the coming into force of this agreement, deliver to the Province from time to time at the request of the Province the originals or complete copies of all records in any department of the Government of Canada relating exclusively with dealings with Crown lands, mines and minerals, and royalties derived therefrom within the Province, and will give to the Province access to all other records, documents or entries relating to any such dealings and permit to be copied by the Province any of the documents required by it for the effective administration of the Crown lands, mines, minerals and royalties.

AMENDMENT OF AGREEMENT.

24. The foregoing provisions of this agreement may be varied by agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province.

WHEN AGREEMENT COMES INTO FORCE.

25. This agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Alberta, and shall take effect on the first day of the calendar month beginning next after the day upon which His Majesty gives His Assent to an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland confirming the same.

In Witness Whereof the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior, have hereunto set their hands on behalf of the Dominion of Canada, and the Honourable John Edward Brownlee, Premier of Alberta, and the Honourable George Hoadley, Minister of Agriculture and Health thereof, have hereunto set their hands on behalf of the Province of Alberta.

Signed on behalf of the Govern-
ment of Canada by the Honour-
able Ernest Lapointe, Minister
of Justice, and the Honourable
Charles Stewart, Minister of
the Interior, in the presence
of

O. M. BIGGAR.

ERNEST LAPOINTE.

CHAS. STEWART.

Signed on behalf of the Province
of Alberta by the Honourable
John Edward Brownlee, Prem-
ier of the said Province, and
the Honourable George Hoad-
ley, Minister of Agriculture
and Health thereof, in the
presence of

J. F. LYMBURN.

J. E. BROWNLEE.

GEO. HOADLEY.

SCHEDULE.

PARKS.

Buffalo.....	P.C. 463, 7th March, 1908. P.C. 1306, 5th June, 1909. P.C. 646, 27th March, 1913. P.C. 2842, 26th November, 1920. P.C. 498, 31st March, 1924. P.C. 408, 19th March, 1925.
Elk Island.....	P.C. 646, 27th March, 1913. P.C. 377, 20th February, 1922.
Jasper.....	P.C. 1323, 14th September, 1907. P.C. 1068, 18th May, 1909. P.C. 1338, 8th June, 1911. P.C. 1165, 24th June, 1914. P.C. 637, 7th April, 1927. P.C. 158, 6th February, 1929. P.C. 159, 6th February, 1929.
Nemiskam.....	P.C. 1134, 31st May, 1922.

SCHEDULE—Concluded

PARKS—*Concluded*

- Rocky Mountains.....P.C. 2197, 25th November, 1885.
P.C. 1891, 23rd July, 1892.
P.C. 1338, 8th June, 1911.
P.C. 2594, 18th September, 1917.
P.C. 158, 6th February, 1929.
- Wawaskesy.....P.C. 1134, 31st May, 1922.
- Waterton Lakes.....P.C. 1621, 30th May, 1895.
P.C. 1338, 8th June, 1911.
P.C. 1165, 24th June, 1914.
P.C. 1298, 20th April, 1921.
P.C. 2556, 20th July, 1921.
- Wood Buffalo Reserve.....P.C. 2498, 18th December, 1922.
P.C. 408, 14th March, 1925.
P.C. 634, 30th April, 1926.
P.C. 1444, 24th September, 1927.

THE ALBERTA NATURAL RESOURCES ACT,
No. 2.

21-22 GEORGE V, CHAPTER 15.

An Act to amend The Alberta Natural Resources Act.

[Assented to 3rd August, 1931.]

1930, c. 3. His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title. **1.** This Act may be cited as *The Alberta Natural Resources Act, No. 2*, and *The Alberta Natural Resources Act*, chapter three of the statutes of 1930 (first session), and this Act may be cited together as *The Alberta Natural Resources Acts*.

Agreement confirmed. **2.** The agreement set out in the schedule hereto is hereby confirmed and shall take effect according to its terms.

SCHEDULE.

MEMORANDUM OF AGREEMENT.

Made this 29th day of July, 1930.

BETWEEN

THE GOVERNMENT OF THE DOMINION OF CANADA, represented herein by the Honourable Charles Stewart, Minister of the Interior,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF ALBERTA, represented herein by the Honourable John Edward Brownlee, Premier of Alberta,

Of the second part.

Whereas by paragraph 24 of the agreement made between the parties hereto on the 14th day of December, 1929, it was agreed that the provisions of the said agreement might be varied by agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province;

And Whereas it was further provided by certain clauses of the said agreement, more particularly paragraphs 1, 6, 8, 9, 18, 20, 21 and 23, that the relations of the parties thereto should be altered as in the said agreement specified from and after the date of the coming into force thereof, and the date upon which it was then contemplated that it should come into force,

as defined by paragraph 25, has now been ascertained as being the 1st day of August, 1930;

And Whereas the Government of the Province has requested that the presently existing powers and rights of each of the parties should continue without alteration until the 1st day of October, 1930, and the parties hereto have agreed accordingly:

Now Therefore This Agreement Witnesseth That:

1. Notwithstanding anything in the said agreement contained, any expression therein contained which defines a date by reference to which the powers or rights of either of the parties are to be altered shall be read as referring to the 1st day of October, 1930, instead of the 1st day of August in that year.

2. The Government of Canada will recommend to Parliament and the Government of the Province of Alberta will recommend to the Legislature of the said Province such legislation as may be necessary to give effect to this agreement.

In Witness Whereof the Honourable Charles Stewart, Minister of the Interior, has hereunto set his hand on behalf of the Dominion of Canada, and the Honourable John Edward Brownlee, Premier of Alberta, has hereunto set his hand on behalf of the said Province.

Signed on behalf of the Government of Canada by the Honourable Charles Stewart, Minister of the Interior, in the presence of	}	CHAS. STEWART.
W. W. CORY.		

Signed on behalf of the Province of Alberta by the Honourable John Edward Brownlee, Premier of the said Province in the presence of	}	J. E. BROWNLEE.
E. A. BROWN.		

THE NATURAL RESOURCES TRANSFER (AMENDMENT) ACT, 1941.

4-5 GEORGE VI, CHAPTER 22.

An Act to amend The Alberta Natural Resources Act.

[Assented to 14th June, 1941.]

1930, c. 3;
1931, c. 15;
1938, c. 36.

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title.

1. This Act may be cited as *The Natural Resources Transfer (Amendment) Act, 1941*.

Agreement confirmed.

2. The Agreement set out in the Schedule to this Act is confirmed and shall have and take effect according to the respective terms thereof.

Power to grant licence.

3. The Minister of Mines and Resources shall have authority to grant the licence referred to in the said agreement, notwithstanding the provisions of *The National Parks Act*, chapter thirty-three of the statutes of 1930 (First Session).

SCHEDULE.

MEMORANDUM OF AGREEMENT made this twenty-eighth day of March, 1941 A.D.

BETWEEN

THE GOVERNMENT OF THE DOMINION OF CANADA, represented herein by the Honourable Thomas Alexander Crerar, Minister of Mines and Resources,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF ALBERTA, represented herein by the Honourable Duncan Bruce MacMillan, Minister of Agriculture and in Charge of Water Resources, and the Honourable Nathan Eldon Tanner, Minister of Lands and Mines,

Of the second part,

Whereas the Agreement entered into between the parties hereto on the 14th day of December, A.D. 1929 (hereinafter referred to as the Natural Resources Transfer Agreement) was duly approved by the Parliament of Canada and the Legislature of the Province, and upon an address to His Majesty from the Senate and House of Commons of Canada, was confirmed and declared to have the force of law by an Act of the Parliament

of the United Kingdom of Great Britain and Northern Ireland entitled "The British North America Act, 1930" being chapter twenty-six of the Imperial Statutes, 20-21 George V;

And whereas by Section 24 of the said Natural Resources Transfer Agreement it was agreed that the provisions of the said Agreement might be varied by an Agreement confirmed by concurrent Statutes of the Parliament of Canada and the Legislature of the Province;

And whereas the said Natural Resources Transfer Agreement provides that the National Parks listed in the Schedule thereto were to continue to be vested in and administered as such by the Dominion of Canada;

And whereas the National Parks Act, being Chapter 33 of the Statutes of 1930 provided that the Parks were dedicated to the people of Canada for their benefit, education and enjoyment and that they should be maintained and made use of so as to leave them unimpaired for the enjoyment of future generations, and no exploitation of the lands therein for commercial purposes was contemplated;

And whereas it has been agreed that to meet requirements arising out of the war authority should be granted the Calgary Power Company, Limited, to proceed with the works necessary to increase the storage of water in Lake Minnewanka in Banff National Park and the construction of an electric power plant at Anthracite, also in the said Park, with necessary transmission lines for conveying the electric power so developed for use in the Park and in areas outside the Park;

And whereas the Governor General in Council by order P.C. No. 7382 of the 13th December, 1940, has signified his approval of the development:

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT:

1. Notwithstanding anything in the said Natural Resources Transfer Agreement contained, the Minister of Mines and Resources of Canada may grant the Calgary Power Company, Limited, the rights as hereinafter enumerated, subject to such terms and conditions as the Governor General in Council may approve and to any rights existing or which may be created under the Irrigation Act, or Part I of the Alberta Water Resources Act;

- (a) The right to raise Lake Minnewanka to a full supply level of elevation 4,840 feet above mean sea level (Geodetic datum) or such lesser elevation as may subsequently be determined by the Minister of Mines and Resources as being the economic maximum with the right to store water up to said elevation and use 200,000 acre-feet of the storage so created or such lesser amount as may subsequently be determined by the said Minister as being the economic maximum by the construction of a dam across the Cascade River Valley at or near the outlet of the said lake;
- (b) The right to divert, take and use the water so stored for the power purposes by diverting the same through a canal and conduit down a lateral valley to a power

station to be constructed on the Cascade River flat at or near Anthracite, and at that point to return the water by suitable works to the Cascade River;

- (c) The right to convey the waters of the Ghost River into Lake Minnewanka through a canal extending from the Park boundary to Lake Minnewanka;
- (d) The right to construct transmission lines with the necessary rights-of-way connecting the proposed power station with the existing transmission system of the Company outside the Park and the system now supplying Banff;
- (e) The right to sell electric power to residents in Banff townsite and vicinity;
- (f) And generally the right to perform such acts in connection with said storage and power development scheme as may be approved from time to time by the Minister of Mines and Resources.

2. The area involved shall continue to be part of the Banff National Park and the Licence for the storage of water and power development shall contain such terms and conditions as may be considered necessary to safeguard, so far as possible, the purpose for which the Park was established.

3. The Licence covering the right to store water and develop power shall be in accordance and subject to the Dominion Water Power Act and amendments thereto and shall vest in the Licensee all necessary rights and powers provided in said Act to be vested in any person authorized to carry out an undertaking and shall contain provisions to safeguard the interests of present and future holders of water rights below the works.

4. This Agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Alberta, and shall take effect on the first day of the calendar month beginning next after its approved as aforesaid, whichever approval, that of the Parliament of Canada or that of the Legislature of the Province, shall be later in date.

In Witness Whereof the Honourable Thomas Alexander Crerar, Minister of Mines and Resources, has hereunto set his hand on behalf of the Dominion of Canada and the Honourable Duncan Bruce MacMillan, Minister of Agriculture and In Charge of Water Resources, and the Honourable Nathan Eldon Tanner, Minister of Lands and Mines, have hereunto set their hands on behalf of the Province of Alberta.

Signed on behalf of the Government of Canada by the Honourable Thomas Alexander Crerar, Minister of Mines and Resources, (Sgd.) T. A. CRERAR.

In the presence of:
(Sgd.) C. W. JACKSON.

Signed on behalf of the Government of Alberta by the Honourable Duncan Bruce MacMillan, Minister of Agriculture and in charge of Water Resources, and the Honourable Nathan Eldon Tanner, Minister of Lands and Mines,

(Sgd.) D. B. MacMILLAN

(Sgd.) N. E. TANNER.

In the presence of:

(Sgd.) KATHLEEN ROSS,
Witness for Minister of Agriculture.

(Sgd.) MARY C. LIVINGSTONE,
Witness for Minister of Lands and Mines.

THE ALBERTA NATURAL RESOURCES TRANSFER (AMENDMENT) ACT, 1945 ⁽¹⁷⁸⁾

9-10 GEORGE VI, CHAPTER 10.

An Act to amend The Alberta Natural Resources Act.

[Assented to 18th December, 1945.]

1930, c. 3;
1931, c. 15;
1938, c. 36.

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title.

1. This Act may be cited as *The Alberta Natural Resources Transfer (Amendment) Act, 1945*.

Agreements confirmed.

2. The Agreements set out in Schedules One and Two to this Act are confirmed and shall have the force of law and take effect according to the respective terms thereof.

Final licences.

3. Notwithstanding the provisions of any other law or Act of the Parliament of Canada the Minister of Mines and Resources shall have authority to issue the final licences referred to in the Agreement set out in Schedule One to this Act and in the interim water power agreements and licences now in force.

(¹⁷⁸) The purpose of this Act was to confirm the Agreements between the Government of Canada and the Government of Alberta set out in Schedules One and Two.

SCHEDULE ONE.

The Agreement in Schedule One provides for the settlement of differences between the Dominion and the Province as to the effect of the Natural Resources Transfer Agreement on the ownership and control of three developed power sites on the Bow River lying within or adjacent to the Stony Indian Reserve. The three sites known as the Horseshoe, Kananaskis and Ghost sites were developed by the Calgary Power Company Limited and are being operated under authorizations issued by the Dominion Government in the years 1909, 1912 and 1929 respectively, when they were under exclusive Dominion jurisdiction prior to the transfer of natural resources in 1930.

The Agreement in Schedule One provides that the land and water power at the two sites in which the Indian interest predominates, namely Horseshoe and Kananaskis, are to remain under Dominion jurisdiction while the Ghost site where the Provincial interest is substantial shall be deemed to have passed to the Province at the time of the transfer of the natural resources. The Minister of Mines and Resources issues all three licences to replace the existing authorizations and will continue to administer the Horseshoe and Kananaskis developments, while the Province will be responsible for administration of the Ghost development as soon as the final licence is issued.

SCHEDULE TWO.

Under the Alberta Natural Resources Transfer Act, 1930, certain public shooting grounds and bird sanctuaries were preserved. Many of them were dried up or were otherwise unsuitable for the purposes for which they were originally set aside. The agreement in Schedule Two provided that these reservations would be cancelled by agreement between the two responsible Ministers concerned with the approval of the Governor in Council and the Lieutenant-Governor in Council.

Section three of the Bill authorized the Minister of Mines and Resources, notwithstanding the provisions of any other law or Act, to issue the final licences to the Calgary Power Company Limited for the three developed power sites on the Bow River referred to in the Agreement set out in Schedule One to which the Company are entitled under the terms of the original authorizations.

SCHEDULE I.

MEMORANDUM OF AGREEMENT made this 25th day of September, A.D. 1945.

BETWEEN

THE GOVERNMENT OF THE DOMINION OF CANADA, represented herein by the Honourable James Allison Glen, Minister of Mines and Resources

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF ALBERTA, represented herein by the Honourable Duncan Bruce MacMillan, Minister of Agriculture and in charge of Water Resources

Of the second part.

WHEREAS in giving effect to the provisions of the Agreement entered into between the Government of the Dominion of Canada and the Government of the Province of Alberta on the 14th day of December, A.D. 1929, and the Supplementary Agreement entered into between them on the 5th day of March, A.D. 1938 (together hereinafter referred to as the Natural Resources Transfer Agreement), differences have arisen between the parties hereto in connection with certain water powers on the Bow River lying within or adjacent to the Stony Indian Reserve developed by the Calgary Power Company Limited and its predecessor in interest prior to the 1st day of October, A.D. 1930;

AND WHEREAS differences have also arisen between the parties hereto as to whether the Dominion or the Province is entitled to the benefits and subject to the obligations of the Licensor under the Licences and Water Power Agreements heretofore granted in respect of the said water powers;

AND WHEREAS it is desirable that these differences should be resolved so as to carry out the true intent and purpose of the Natural Resources Transfer Agreement;

AND WHEREAS by Paragraph 24 of the Natural Resources Transfer Agreement it was agreed that the provisions of the said Agreement might be varied by agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT:

1. With respect to the water power at Horseshoe Falls,—

(a) The interest of the Crown in the bed and banks of the Bow River and in all waters and water power rights appurtenant thereto within the limits of the tract of land described in Schedule "A" hereto shall continue as and from October 1, 1930, to be vested in the

Crown in the right of Canada. All rights and obligations of the Crown under the Letters Patent dated April 23, 1909, granted to Calgary Power and Transmission Company, Limited, and under the Water Power Agreement dated October 14, 1909, between the Minister of the Interior and Calgary Power and Transmission Company, Limited, and the Regulations applicable thereto shall continue to be exercisable by and binding upon the Crown in the right of Canada. The Dominion Minister shall issue the Horseshoe Falls Licence for the second term of twenty-one years from October 14, 1935, provided for in the said Water Power Agreement and shall issue any renewals of the licence subject to and as provided in the said Water Power Agreement and Regulations but in such renewals of the licence no change shall be made in the rental or any other condition of the licence except by agreement between the Dominion and Provincial Ministers. If the said Ministers fail to agree on a readjusted rental for a renewal period, the same shall be fixed by arbitration, one arbitrator to be appointed by the Governor in Council, the second by the Lieutenant Governor in Council and the third by the two so appointed, or in case they fail to agree by the Chief Justice of Canada, and except as herein provided, the provisions of the Arbitration Act of the province of Alberta shall so far as applicable govern such arbitration but without prejudice to the Licensee's right to arbitration as in the said Regulations provided. Any voluntary transfer of the Horseshoe Falls Licence to the Province or to any authority of the Province whereby the Assignee or Transferee has undertaken to assume all the obligations of the Licensee thereunder and any transfer, charge, or encumbrance thereof by way of mortgage or trust deed which is approved by the Board of Public Utility Commissioners or by any other authority, board or commission designated by the Provincial Minister shall be effective subject to the Dominion Minister being notified ninety days prior to the transfer.

- (b) The annual sum of \$1,500 payable under the said Letters patent dated April 23rd, 1909, together with all sums of money payable under the terms of any water power agreement or licence covering the said water power, shall continue to be payable to Canada for the benefit of the Indians of the Stony Band.

2. With respect to the water power at Kananaskis Falls,—

- (a) The interest of the Crown in the bed and banks of the Bow and Kananaskis rivers and in all waters and water power rights appurtenant thereto within the limits described in Schedule "B" hereto, shall continue as and from October 1, 1930, to be vested in the Crown in the right of Canada. All rights and obligations of the Crown under the Water Power Agreement dated October 14, 1912, between the Minister of the Interior and Calgary Power Company, Limited (excepting those

contained in the provisions of Paragraph 27 thereof relative to the leasing of former Park lands which have passed to the Province) and the Regulations applicable thereto shall continue to be exercisable by and binding upon the Crown in the right of Canada. The Dominion Minister shall issue the Kananaskis Falls licence for the second term of twenty-one years from October 14, 1936, provided for in the said Water Power Agreement and shall issue any renewals of the licence subject to and as provided in the said Water Power Agreement and Regulations but in such renewals of the licence no change shall be made in the rental or any other condition of the licence except by agreement between the Dominion and Provincial Ministers. If the said Ministers fail to agree on a readjusted rental for a renewal period, the same shall be fixed by arbitration, one arbitrator to be appointed by the Governor in Council, the second by the Lieutenant Governor in Council and the third by the two so appointed, or in case they fail to agree by the Chief Justice of Canada, and except as herein provided, the provisions of the Arbitration Act of the Province of Alberta shall so far as applicable govern such arbitration but without prejudice to the Licensee's right to arbitration as in the said Regulations provided. Any voluntary transfer of the Kananaskis Falls Licence to the Province or to any authority of the Province whereby the Assignee or Transferee has undertaken to assume all the obligations of the Licensee thereunder and any transfer, charge or encumbrance thereof by way of mortgage or trust deed which is approved by the Board of Public Utility Commissioners or by any other authority, board or commission designated by the Provincial Minister shall be effective subject to the Dominion Minister being notified ninety days prior to the transfer.

- (b) As the administrative authority since October 1, 1930, for the former Park lands lying outside the Stony Indian Reserve, the Province will carry out the provisions of Paragraph 27 of the said Water Power Agreement dated October 14, 1912. In the event of Canada acquiring the Kananaskis Falls Power development pursuant to the terms of the said Licence and Regulations, the Province will renew the lease referred to in the said Paragraph 27 to Canada or its nominee on terms to be agreed upon between Canada and the Province, or in default of agreement to be settled by a judge of the Supreme Court of Alberta nominated by the Chief Justice of Alberta.
- (c) All sums payable under the terms of the Agreement dated May 20, 1914, between the Calgary Power Company, Limited, and certain Indians of the Stony Band for land and water power rights at Kananaskis Falls, shall continue to be payable to Canada for the benefit of the Indians.

- (d) As and from October 1, 1930, all sums which have been paid or are payable under the terms of the said Water Power Agreement of October 14, 1912, other than Paragraph 27 thereof, shall be divided between Canada for Indian Interests and the Province, and shall be paid to Canada and the Province respectively in proportion to the developed head within and without the Stony Indian Reserve namely, in the proportion of 45/72 to Canada and 27/72 to the Province.
 - (e) All sums which have been paid or are payable to Canada by the Licensee under the terms of any Water Power Licence granted by Canada pursuant to the said Agreement of October 14, 1912, including as such the annual sum of \$1,500 payable to the Superintendent General of Indian Affairs under the said Agreement of May 20th, 1914, or any Patent or other grant of land confirming or replacing the said Agreement, shall be divided between Canada for Indian Interests and the Province, and shall be paid to Canada and the Province respectively in proportion to the developed head within and without the Stony Indian Reserve namely, in the proportion of 45/72 to Canada and 27/72 to the Province provided that Canada's share of such division shall never be less than \$1,500 per annum.
 - (f) All sums which become payable under the terms of the lease to be granted by the Province for the former Park land lying outside the said Reserve in pursuance of the terms of the said Agreement of October 14, 1912, shall belong to and be payable to the Province.
 - (g) In the event of Canada acquiring the Kananaskis Falls Power Development pursuant to the terms of the said Licence and Regulations, Canada shall thereafter during the operation of the plant at the Kananaskis Falls site pay to the Province an annual sum in respect of water rentals equal to the amount payable to the Province for water rentals in the year preceding such acquisition.
3. With respect to the water power at the Ghost site,—
- (a) The Dominion Minister shall issue the Final Licence provided for in the Interim Licence granted by the Minister of the Interior of Canada on the 17th day of January, 1929, subject to and in accordance with the Water Power Regulations established under The Dominion Water Power Act by Order in Council dated October 31, 1921, published in the *Canada Gazette* of November 12, 1921, and as amended as to Sections 48 (13) and 83a by Order in Council of September 10, 1928, published in the *Canada Gazette* of September 15, 1928. The said Final Licence shall provide that as from the 1st day of January, 1930, the date upon which the Licensee completed the initial development and became entitled to a Final Licence, all transmission lines and distribution systems then or thereafter forming part of the Licensee's interconnected electrical power system within the limits of the Province of

Alberta shall form part of the undertaking established under the said Final Licence in accordance with Section 44 (*e*) of the said Regulations and the fixation of cost of the Ghost Power Development shall include all costs of such undertaking to and including 31st December, 1944. The said Final Licence shall also provide that for the purposes of Section 49 of the said Regulations the said undertaking shall also include as from 1st January, 1930, the Horseshoe Falls Power Development, the Kananaskis Falls Power Development and all other power and storage developments of the Licensee within the limits of the Province of Alberta constituting for the time being with the Ghost undertaking one interconnected power system of the Licensee. The Dominion Minister, or his Deputy, may do and perform all such acts and things for the issuing of the said Final Licence as are provided herein and in the said Regulations. The Dominion Minister shall also fix the "actual cost" as defined in and in the manner provided in the Water Power Regulations established under the Dominion Water Power Act by Order in Council dated October 31, 1921, of the Horseshoe Falls and Kananaskis Falls Power Developments as at 31st December, 1944.

- (b) The interest of the Crown in the bed and banks of the Bow River at the Ghost site from the eastern boundary of the Stony Indian Reserve to the upstream limit of floodage as shown upon Record Plan numbered 2884 on file in the Office of the Controller of Water Power at Ottawa, and in all waters and water power rights appurtenant thereto shall be deemed to belong and to have belonged to the Province as and from October 1, 1930, subject to the Final Licence for the use of all the waters of the Bow River at the said site to be issued as provided in Paragraph 3 (*a*) hereof and the provisions of Paragraphs 1, 2 and 3 of the Natural Resources Transfer Agreement of December 14, 1929, shall apply to the said Final Licence when issued with the same effect as if the said Licence had been issued prior to October 1, 1930, and as if all the rights and obligations of the Crown thereunder and under the Regulations had been transferred to and assumed by the Province by the Natural Resources Transfer Agreement. After such transfer and assumption as aforesaid in the application of the said Regulations amended as aforesaid to the said Licence the "Provincial Minister" shall be substituted for "the Minister of the Interior", the "Department" shall be substituted for "the Department of the Interior" and "the Supreme Court of Alberta" shall be substituted for "the Exchequer Court of Canada", and "the Crown" shall mean the Crown in the right of the Province.
- (c) As and from October 1, 1930, all sums which have been paid or are payable under the terms of the said Interim Licence of January 17, 1929, and the Final Licence referred to in paragraph 3 (*a*) above for water power

rights, since that date shall be divided between Canada and the Province in the proportions of one-half to Canada for the benefit of the said Indians of the Stony Band and one-half to the Province, and shall be paid to Canada and the Province respectively in the proportions stated.

- (d) In the event of the said Final Licence, referred to in paragraph 3 (a) above, expiring or being terminated, the Province shall thereafter during the operation of the generating plant at the Ghost site, pay to Canada for the benefit of the Stony Band of Indians an annual sum equal to one-half of the average annual water power rental payable in the last five years preceding such expiry or termination or such lesser sum as the Superintendent General of Indian Affairs may fix as just and reasonable in the circumstances, provided that if the said plant be closed down the annual sum payable by the Province to Canada for the benefit of the Stony Band of Indians shall so long as the dam contributes to storage or river control be \$3,500.
- (e) As and from October 1st, 1930, all sums payable for the use or occupation of land under the terms of the Interim Licence of January 17th, 1929, and the Final Licence referred to in paragraph 3 (a) above, shall belong to and be payable to the Province.

4. The licences to be issued as herein provided shall be in the form and terms of the drafts thereof initialled for identification by the Dominion Minister and the Provincial Minister, respectively, and shall be valid and effective according to such terms, but nothing herein contained shall be deemed to be a waiver of any other rights, interests or obligations of either Canada or the Province arising out of the Natural Resources Transfer Agreement or otherwise and in particular neither Canada nor the Province waives any claim it may have or assert or admits any claim which the other party may have or assert to the title and control of the bed and banks of the Bow River or in the waters and water power rights appertaining thereto except as herein provided.

5. As used herein the expression "Dominion Minister" means The Minister of Mines and Resources of Canada and his successor in office for the time being, and the expression "Provincial Minister" means the Minister for the time being charged with the administration of the Water Resources Act of the Province of Alberta.

6. This agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Alberta, and shall take effect on the first day of the calendar month beginning next after its approval as aforesaid, whichever approval, that of the Parliament of Canada or that of the Legislature of the Province, shall be later in date.

IN WITNESS WHEREOF the Honourable James Allison Glen, Minister of Mines and Resources, has hereunto set his hand on behalf of the Government of the Dominion of Canada; and the

Honourable Duncan Bruce MacMillan, Minister of Agriculture and in charge of Water Resources, has hereunto set his hand on behalf of the Government of the Province of Alberta.

Signed on behalf of the Government of
Canada by the Honourable James
Allison Glen, Minister of Mines and
Resources, in the presence of: } "J. ALLISON GLEN"

"C. W. JACKSON".

Signed on behalf of the Government of
Alberta by the Honourable Duncan
Bruce MacMillan, Minister of Agri-
culture and in charge of Water Re-
sources, in the presence of: } "D. B. MACMILLAN"

"KATHLEEN L. CONNORS"

SCHEDULE "A".

All that tract of land situated partly on the right bank and partly on the left bank of the Bow River in the Stony Indian Reserve, described as follows:—Commencing at a point in the northerly side of the Right of Way of the Canadian Pacific Railway, distant twenty-four chains easterly from the fifty-first mile post of the said Railway:—thence North $65^{\circ} 37'$ West twenty-two chains:—thence North $39^{\circ} 37'$ West forty-two chains:—thence North $50^{\circ} 23'$ East, one hundred and forty-six chains and thirty links:—thence South $49^{\circ} 37'$ East, thirty-six chains and thirty-six links:—thence South $39^{\circ} 37'$ East thirty chains and sixty-eight links to the northerly limit of the Right of Way of the Canadian Pacific Railway:—thence westerly along the said northerly limit to the point of commencement, all as shown on a plan of record in the Department of Indian Affairs, dated 5th April, 1909, as 821A, together with the bed and banks of the Bow River from the easterly boundary of the tract of land above described up to the tail-water level of the Kananaskis Power plant.

SCHEDULE "B".

All those portions of the beds and banks of the Bow and Kananaskis Rivers from the tail-water level of the Kananaskis Plant to the southwestern boundary of the Stony Indian Reserve, and from thence to the limits of floodage of the Kananaskis Falls Power Development as shown on Record Plan numbered 2894 on file in the office of the Controller of Water Power at Ottawa, and to such further limits on the said rivers to which the floodage may be from time to time extended with the consent of the Minister for the time being charged with the administration of the Water Resources Act of the Province of Alberta.

SCHEDULE II.

MEMORANDUM OF AGREEMENT made this 26th day of September, 1945.

BETWEEN:

THE GOVERNMENT OF THE DOMINION OF CANADA, represented herein by the Honourable James Allison Glen, Minister of Mines and Resources,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF ALBERTA, represented herein by the Honourable Nathan Eldon Tanner, Minister of Lands and Mines,

Of the second part.

Whereas the agreement entered into between the parties hereto on the fourteenth day of December, A.D. 1929 (hereinafter referred to as the Natural Resources Transfer Agreement), was duly approved by the Parliament of Canada and the Legislature of the Province, and upon an address to His Majesty from the Senate and House of Commons of Canada, was confirmed and declared to have the force of law by an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland entitled "*The British North America Act, 1930*", being chapter twenty-six of the Imperial Statutes, 20-21 George V;

And whereas, by paragraph 24 of the said Natural Resources Transfer Agreement it was agreed that the provisions of the said Agreement might be varied by an Agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province;

And whereas, the said Natural Resources Transfer Agreement came into force, in virtue of a further Agreement between the parties thereto, dated the twenty-ninth day of July, A.D. 1930, which was duly confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province, on the first day of October, A.D. 1930;

And whereas, it was provided by paragraph 19 of the said Agreement as follows: "The Province will not dispose of any historic site which is notified to it by Canada as such and which Canada undertakes to maintain as an historic site. The Province will further continue and preserve as such the bird sanctuaries and public shooting grounds which have been already established and will set aside such additional bird sanctuaries and public shooting grounds as may hereafter be established by agreement between the Minister of the Interior and the Provincial Secretary or such other Minister of the Province as may be specified under the laws thereof."

And whereas, it has been agreed between Canada and the Province of Alberta that certain public shooting grounds and bird sanctuaries which were established at the time of the making of the said Natural Resources Transfer Agreement and since maintained by the Province should be discontinued and that authority should also be given under certain conditions to discontinue any public shooting grounds and bird sanctuaries established pursuant to the said Agreement;

Now therefore, this Agreement witnesseth as follows:

1. The said Natural Resources Transfer Agreement is hereby amended by adding after the above mentioned paragraph 19 the following new paragraph:

"19A. The Province may discontinue any bird sanctuary or public shooting ground which was transferred to the Province by virtue of this Agreement or which has since been established by the Province or which may hereafter be established by the Province pursuant to this Agreement in any case in which an agreement is entered into between the Minister of Mines and Resources of Canada and the Minister of Lands and Mines of Alberta approved by the Governor in Council and the Lieutenant Governor in Council respectively, providing for the discontinuance of any such bird sanctuary or public shooting ground."

2. This Agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Alberta, and shall take effect on the first day of the calendar month beginning next after its approval as aforesaid, whichever approval, that of the Parliament of Canada or that of the Legislature of the Province, shall be later in date.

In witness whereof, the Honourable James Allison Glen, Minister of Mines and Resources, has hereunto set his hand on behalf of the Dominion of Canada; and the Honourable Nathan Eldon Tanner, Minister of Lands and Mines, has hereunto set his hand on behalf of the Province of Alberta.

Signed on behalf of the Government of	}	"J. ALLISON GLEN."
Canada by the Honourable James		
Allison Glen, Minister of Mines and		
Resources, in the presence of "C. W. JACKSON."		

Signed on behalf of the Government of	}	"N. E. TANNER."
Alberta by the Honourable Nathan		
Eldon Tanner, Minister of Lands and		
Mines, in the presence of "GRACE A. M. MATHESON."		

THE RAILWAY BELT AND PEACE RIVER BLOCK ACT.

20-21 GEORGE V, CHAPTER 37.

**An Act respecting the transfer of the Railway Belt
and the Peace River Block.**

[Assented to 30th May, 1930.]

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title.

1. This Act may be cited as *The Railway Belt and Peace River Block Act*.

Agreement confirmed.

2. The agreement set out in the schedule hereto is hereby approved.

SCHEDULE.

MEMORANDUM OF AGREEMENT.

Made this twentieth day of February, 1930.

BETWEEN:

THE GOVERNMENT OF THE DOMINION OF CANADA, represented herein by the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF BRITISH COLUMBIA, represented herein by the Honourable Simon Fraser Tolmie, Premier and Minister of Railways of the said Province, and the Honourable Frederick Parker Burden, Minister of Lands thereof,

Of the second part.

Whereas pursuant to paragraph eleven of the Terms of Union between the Dominion of Canada and the then Colony of British Columbia and to certain statutes of the Legislature of the Province of British Columbia, being chapter eleven of the statutes of the year eighteen hundred and eighty, chapter fourteen of the statutes of the year eighteen hundred and eighty-three, and chapter fourteen of the statutes of the year eighteen hundred and eighty-four, there were granted by the Province to Canada certain Crown lands in the Province by way of consideration for Canada's undertaking to secure the construction of a railway to connect the seaboard of the Province with the railway system of Canada and of Canada's paying to the Province from the date of the Union an annual sum of one hundred thousand dollars, the said Crown lands being defined in the statutes aforesaid and having become known as the Railway Belt and the Peace River Block;

And whereas a railway such as is described in paragraph eleven of the Terms of Union has been duly constructed and is in operation, and the Province has requested the re-transfer to it of such of the lands in the said Railway Belt and Peace River Block as remain unalienated;

And whereas the Honourable W. M. Martin, one of the Judges of the Court of Appeal for the Province of Saskatchewan, having by Order in Council dated the eighth day of March, 1927 (P.C. 422) been appointed a commissioner under Part One of the *Inquiries Act* to receive and inquire into the arguments of the Government of the Province of British Columbia in support of its claim for the reconveyance of the said lands to the Province, submitted his report as such commissioner in which he expressed the opinion that the Province could not by reason of its own agreements and statutes advance any legal claim, but that its request should be considered from the standpoint of fairness and justice rather than from the strictly legal and contractual

position, and in which he recommended that the said lands should be restored;

And whereas Canada has agreed accordingly to re-transfer the said lands to the Province on the terms hereinafter set out:

Now This Agreement Witnesseth that the parties have agreed as follows:—

TRANSFER OF RAILWAY BELT AND PEACE RIVER BLOCK
GENERALLY.

1. Subject as hereinafter provided, all and every interest of Canada in the lands granted by the Province to Canada as hereinbefore recited are hereby re-transferred by Canada to the Province and shall, from and after the date of the coming into force of this agreement, be subject to the laws of the Province then in force relating to the administration of Crown lands therein.

2. Any payment received by Canada before the coming into force of this agreement in respect of any interest in the said lands shall continue to belong to Canada, whether paid in advance or otherwise, without any obligation on the part of Canada to account to the Province therefor, and the Province shall be entitled to receive and retain any such payment made after the coming into force of this agreement without accounting to Canada therefor.

3. The Province will carry out in accordance with the terms thereof every contract to purchase or lease any interest in any of the lands hereby transferred and every other arrangement whereby any person has become entitled to any interest therein as against Canada, and will perform every obligation of Canada arising by virtue of the provisions of any statute or Order in Council or regulation affecting the said lands hereby transferred to any person entitled to a grant of lands by way of subsidy for the construction of railways or otherwise, or to any railway company for grants of land for right of way, roadbed, stations, station grounds, workshops, buildings, yards, ballast pits or other appurtenances.

4. Any power or right which, by any agreement or other arrangement relating to any interest in the lands hereby transferred or by any Act of the Parliament of Canada relating to the said lands, or by any regulation made under any such Act, is reserved to the Governor in Council, or to the Minister of the Interior or any other officer of the Government of Canada, may be exercised by the Lieutenant-Governor of the Province in council or by such officer of the Government of the Province as is authorized to exercise similar powers or rights under the laws of the Province relating to the administration of Crown lands therein.

5. The application to the lands hereby transferred of the laws of the Province relating to the administration of Crown lands therein, as hereinbefore provided, shall not be deemed to affect the terms of any alienation by Canada of any interest in the said lands or of any agreement made by Canada for such alienation, or the rights to which any person may have become entitled as aforesaid.

ORDNANCE AND ADMIRALTY LANDS.

6. Nothing in this agreement shall be interpreted as affecting or transferring to the Province any ordnance or admiralty lands included in the Railway Belt which have been or are hereafter transferred or surrendered to Canada by the Government of the United Kingdom of Great Britain and Ireland or of the United Kingdom of Great Britain and Northern Ireland.

7. All ordnance and admiralty lands which were set aside as such before the sixteenth day of May, eighteen hundred and seventy-one, and which have been or are hereafter transferred or surrendered to Canada as aforesaid, whether the same lie within or without the said Railway Belt, shall continue to be vested in and administered by the Government of Canada for the purposes of Canada, provided, however, that Canada shall recognize and confirm any alienation of any part of the said lands heretofore made by the Province and shall perform and execute every obligation of the Province which has arisen with respect to any part of the said lands by virtue of any agreement made by the Province in respect thereof, or by virtue of any Act of the Legislature of the Province or of any Order in Council or regulation made under the authority of any such Act.

8. The location and boundaries of the several parcels of ordnance and admiralty lands aforesaid shall be referred for determination to two persons, one of whom shall be appointed by the Governor General in Council, and one by the Lieutenant-Governor in Council, and in the event of a disagreement between the said two persons, an umpire shall be selected by agreement between the Minister of Justice for Canada and the Attorney-General of British Columbia.

PUBLIC WORKS.

9. Notwithstanding anything in the foregoing paragraphs of this agreement, Canada shall retain the wharves and wharf sites situate within the Railway Belt and specified in Schedule One to this agreement, together with the lands adjacent thereto which are required for the convenient use of any such wharf or wharf site; the boundaries of the parcels of land reserved to Canada under this clause shall be ascertained and defined by agreement between Canada and the Province as soon as convenient.

10. Forthwith upon any of the said parcels of land ceasing to be required for use as a wharf site, such parcel shall revert to and become the property of the Province.

HARBOURS.

11. Nothing in the foregoing paragraphs of this agreement shall extend to the foreshores or beds of harbours heretofore established within the Railway Belt, but the said foreshores and beds shall continue to be vested in Canada, and there shall in addition be reserved and retained by Canada the foreshores and beds of the Fraser River and the Pitt River lying above the eastern boundaries of New Westminster Harbour and below lines to be ascertained and defined by agreement at the junction of Kanaka Creek with the Fraser River and at the point of the exit of the Pitt River from Pitt Lake.

SUMAS DYKING LANDS.

12. The Province will grant and assure to the Canadian Pacific Railway Company the lands occupied or required by it for the purpose of the construction and operation of its railway in that part of the Railway Belt hereinbefore referred to which is known as the Sumas Dyking Lands, in such manner that the said Company may obtain a registered title to the said lands in fee simple free from encumbrance.

INDIAN RESERVES.

13. Nothing in this agreement shall extend to the lands included within Indian reserves in the Railway Belt and the Peace River Block, but the said reserves shall continue to be vested in Canada in trust for the Indians on the terms and conditions set out in a certain order of the Governor General of Canada in Council approved on the 3rd day of February, 1930 (P.C. 208).

PARKS.

14. Nothing in the foregoing clauses of this agreement shall be construed as re-transferring to the Province any interest of Canada in any of the lands forming part of the Railway Belt which are included within any of the national parks described in Schedule Two of this agreement.

15. In order that the said national parks may be administered by Canada as such, all the rights of the Crown in all the lands, mines and minerals (precious and base) and the royalties incident thereto within any of the said parks are hereby vested in Canada, so far as they are not already so vested.

16. The Parliament of Canada shall have exclusive legislative jurisdiction within the whole area included within the outer boundaries of each of the said parks, notwithstanding that portions of any such area may not form part of the park proper, and the laws now in force within such areas shall continue so in force only until changed by the Parliament of Canada or under its authority, provided, however, that all laws of the Province now or hereafter in force, which are not repugnant to any law or regulation made applicable within the said areas or any of them by or under the authority of the Parliament of Canada, shall extend to and be enforced within the same, and that all general taxing acts passed by the Province shall apply within the same unless expressly excluded from application therein by or under the authority of the Parliament of Canada.

17. On the termination, by effluxion of time or surrender or otherwise, of any interest in any lands included within any of the said areas which is outstanding in any person at the date of the coming into force of this agreement, the lands in which such interest existed shall vest in and shall thereafter be administered by Canada as part of the national park within the outer boundaries of which such lands lie.

18. All rights of the Crown in any waters within the said parks shall be vested in and administered by Canada, and the Province will not by works outside any such park reduce the flow of water in any of the rivers or streams within the said

park to less than the flow which the Minister of the Interior may deem necessary adequately to preserve the scenic beauty of the said park.

19. In the event of the Parliament of Canada at any time declaring that any of the said areas or any part of any of them are no longer required for national park purposes, the lands, mines, minerals (precious and base) and the royalties incident thereto specified in any such declaration shall forthwith upon the making thereof belong to the Province and the provisions of paragraphs one to five of this agreement shall apply thereto as from the date of such declaration.

20. In the event of it being hereafter agreed by Canada and the Province that any area or areas of land in the Province, in addition to those specified in Schedule Two to this agreement, should be set aside as national parks and be administered by Canada, the foregoing provisions of this agreement on the subject of parks may be applied to such area or areas with such modification as may be agreed upon.

SOLDIERS' SETTLEMENT LANDS.

21. Nothing in this agreement shall have the effect of transferring to the Province the interest of Canada in any part of the said lands upon the security of which any advance has been made under the provisions of the *Soldier Settlement Act*, being chapter 188 of the Revised Statutes of Canada, 1927, and amending Acts, until after the provisions of the said Act have ceased to apply to or affect the said lands

HISTORIC SITES AND BIRD SANCTUARIES.

22. The Province will not dispose of any historic site which is notified to it by Canada as such and which Canada undertakes to maintain as an historic site. The Province will further continue and preserve as such the bird sanctuaries which have been already established by Canada in the Railway Belt or Peace River Block, and will set aside such additional bird sanctuaries as may hereafter be established by agreement between the Minister of the Interior and the Attorney-General or such other Minister of the Province as may be specified under the laws thereof.

GENERAL RESERVATION TO CANADA.

23. Except as herein otherwise expressly provided, nothing in this agreement shall be interpreted as applying so as to affect or transfer to the administration of the Province (a) any lands for which Crown grants have been made and registered under *The Land Registry Act* of the Province and of which His Majesty the King in the right of His Dominion of Canada is, or is entitled to become, the registered owner at the date upon which this agreement comes into force, or (b) any ungranted lands of the Crown upon which public money of Canada has been expended or which are, at the date upon which this agreement comes into force, in use or reserved by Canada for the purpose of the federal administration.

SUBSIDY CONTINUED.

24. Notwithstanding the re-transfer of the hereinbefore recited lands, Canada will continue to pay annually to the Province, by half-yearly payments on the first days of January and July in each year, the sum of one hundred thousand dollars, as provided in paragraph eleven of the Terms of Union aforesaid.

RECORDS.

25. Canada will, after the coming into force of this agreement, deliver to the Province from time to time at the request of the Province the originals or complete copies of all records in any department of the Government of Canada relating exclusively to any dealings with any of the lands hereby re-transferred to the Province and will give to the Province access to all other records, documents or entries relating to any such dealings and permit to be copied by the Province any of the documents required by it for the effective administration of the lands hereby transferred.

AMENDMENT OF AGREEMENT.

26. The foregoing provisions of this agreement may be varied by agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province.

WHEN AGREEMENT COMES INTO FORCE.

27. This agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of British Columbia, and shall take effect on the first day of the calendar month beginning next after the day upon which His Majesty gives His Assent to an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland confirming the same.

In witness whereof the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior, have hereunto set their hands on behalf of the Dominion of Canada, and the Honourable Simon Fraser Tolmie, Premier and Minister of Railways of the said Province, and the Honourable Frederick Parker Burden, Minister of Lands thereof, have hereunto set their hands on behalf of the Province of British Columbia.

Signed on behalf of the Government of Canada by the Honourable Ernest Lapointe, Minister of Jus- tice, and the Honourable Charles Stewart, Minister of the Interior, in the presence of	}	ERNEST LAPOINTE. CHAS. STEWART.
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O. M. BIGGAR.

Signed on behalf of the Govern- ment of British Columbia by the Honourable Simon Fraser Tolmie, Premier and Minister of Railways thereof, and the Honourable Frederick Parker Burden, Minister of Lands thereof.	}	S. F. TOLMIE.
		F. P. BURDEN.

R. H. POOLEY,
Attorney-General.

N. S. LOUGHEED,
Minister of Lands.

H. CATHCART,
Deputy Minister of Lands.

OSCAR C. BASS,
Deputy Attorney-General.

SCHEDULE ONE.

WHARF LOCATIONS.

Brownsville.	Riverside.
Coquitlam.	Mission.
Port Coquitlam.	Hatzic.
Minnekahda.	Dewdney.
Harris Road.	Murphy's Landing.
Hammond.	Magars Landing.
Port Moody.	Sumas.
Ioco.	Chilliwack Upper Landing.
Haney.	Minto Landing.
Albion.	Anglemont.
Whonnock.	Blind Bay.
Ruskin.	Canoe.
Donatella.	Celista.
Barnston Island.	Chase.
Port Kells.	Eagle Bay.
Gordon Road.	Wanlock.
McAdams.	Glenedon.
Langley.	Magna Bay.
McIvers.	Sicamous.
McKays.	Salmon Arm.
Glen Valley.	Seymour Arm.
Marsh's.	Sorrento.
Mount Lehman.	Scotch Creek.
Matsqui.	Pritchard.

S. F. T.	E. L.
F. P. B.	C. S.

SCHEDULE TWO.

NATIONAL PARKS.

1. Mount Revelstoke National Park, with the boundaries defined by the Proclamations based upon Orders in Council dated 28th April, 1914 (P.C. 1125); 5th May, 1920 (P.C. 985); 18th August, 1927 (P.C. 1645).

2. Glacier National Park, with the boundaries defined by the Proclamations based upon Orders in Council dated 8th June, 1911 (P.C. 1338); 12th August, 1911 (P.C. 1781); 11th February, 1930 (P.C. 134).

3. Yoho National Park, with the boundaries defined by the Proclamations based upon Orders in Council dated 8th June, 1911 (P.C. 1338); 21st April, 1920 (P.C. 828); 11th February, 1930 (P.C. 134).

4. Kootenay National Park as shown on the map certified by the Surveyor General of Canada on 1st February, 1928, and on file in the office of the Surveyor General, a copy thereof having been filed in the Department of Lands of the Province under number 7T 312.

S. F. T.

E. L.

F. P. B.

C. S.

THE MANITOBA NATURAL RESOURCES ACT.

20-21 GEORGE V, CHAPTER 29.

An Act respecting the transfer of the Natural Resources of Manitoba.

[Assented to 30th May, 1930.]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as *The Manitoba Natural Resources Act*. Short title.

2. The agreement set out in the schedule hereto is hereby approved. Agreement confirmed.

SCHEDULE.

MEMORANDUM OF AGREEMENT.

Made this fourteenth day of December, 1929.

BETWEEN

THE GOVERNMENT OF THE DOMINION OF CANADA, represented herein by the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF MANITOBA, represented herein by the Honourable John Bracken, Premier of Manitoba, and the Honourable Donald G. McKenzie, Minister of Mines and Natural Resources,

Of the second part.

Whereas by section thirty of the *Manitoba Act*, being Chapter three of thirty-three Victoria, it was provided that all ungranted or waste lands in the Province should be vested in the Crown and administered by the Government of Canada for the purposes of the Dominion, subject to the conditions and stipulations contained in the Agreement for the surrender of Rupert's Land by the Hudson's Bay Company to Her Majesty;

And whereas the boundaries of the Province as defined by the *Manitoba Act* were altered and the area included in the said Province enlarged by the statutes forty-four Victoria, chapter fourteen, and two George the Fifth, chapter thirty-two;

And whereas by an Order in Council adopted upon a report from the Right Honourable W. L. Mackenzie King, Prime Minister of Canada, and approved by His Excellency the Governor General on the first day of August, 1928, it was provided, pursuant to an agreement in that behalf entered into with representatives of the Government of the Province that the Province would be placed in a position of equality with the other provinces of Confederation with respect to the administration and control of its natural resources as from its entrance into Confederation in 1870, that a commission of three persons would be appointed to inquire into and report as to what financial readjustments should be made to effect that end and that upon agreement between the Government of Canada and the Government of the Province upon the financial terms, following consideration of the report of the Commission, a transfer would be made by Canada to the Province of the unalienated natural resources within the boundaries of the Province subject to any trust existing in respect thereof and without prejudice to any interest other than that of the Crown in the same;

And whereas a Commission, composed of the Honourable Mr. Justice W. F. A. Turgeon, the Honourable Thomas Alexander Crerar and Charles M. Bowman, Esquire, was appointed to conduct an inquiry into the financial readjustments involved in the proposed transfer, and the Commission has since reported its findings and these findings have been accepted and agreed to by the Government of Canada and the Government of the Province;

And whereas it is now expedient, in order to carry out the purpose of the aforesaid Order in Council and to give effect to the agreement arrived at in the premises between the Government of Canada and the Government of the Province, to modify the provisions of the statutes above referred to as herein set out.

Now Therefore This Agreement Witnesseth:

TRANSFER OF PUBLIC LANDS GENERALLY.

1. In order that the Province may be in the same position as the original Provinces of Confederation are in virtue of section one hundred and nine of the *British North America Act, 1867*, the interest of the Crown in all Crown lands, mines, minerals (precious and base) and royalties derived therefrom within the Province, and all sums due or payable for such lands, mines, minerals or royalties, shall, from and after the coming into force of this agreement, and subject as therein otherwise provided, belong to the Province, subject to any trusts existing in respect thereof, and to any interest other than that of the Crown in the same, and the said lands, mines, minerals and royalties shall be administered by the Province for the purposes thereof, subject, until the Legislature of the Province otherwise provides, to the provisions of any Act of the Parliament of Canada relating to such administration; any payment received by Canada in respect of any such lands, mines, minerals or royalties before the coming into force of

this agreement shall continue to belong to Canada whether paid in advance or otherwise, it being the intention that, except as herein otherwise specially provided, Canada shall not be liable to account to the Province for any payment made in respect of any of the said lands, mines, minerals or royalties before the coming into force of this agreement, and that the Province shall not be liable to account to Canada for any such payment made thereafter.

2. The Province will carry out in accordance with the terms thereof every contract to purchase or lease any Crown lands, mines or minerals and every other arrangement whereby any person has become entitled to any interest therein as against the Crown, and further agrees not to affect or alter any term of any such contract to purchase, lease or other arrangement by legislation or otherwise, except either with the consent of all the parties thereto other than Canada or in so far as any legislation may apply generally to all similar agreements relating to lands, mines or minerals in the Province or to interests therein, irrespective of who may be the parties thereto.

3. Any power or right, which, by any such contract, lease or other arrangement, or by any Act of the Parliament of Canada relating to any of the lands, mines, minerals or royalties hereby transferred, or by any regulation made under any such Act, is reserved to the Governor in Council or to the Minister of the Interior or any other officer of the Government of Canada, may be exercised by such officer of the Government of the Province as may be specified by the Legislature thereof from time to time, and until otherwise directed, may be exercised by the Minister of Mines and Natural Resources of the Province.

4. The Province will perform every obligation of Canada arising by virtue of the provisions of any statute or order in council or regulation in respect of the public lands to be administered by it hereunder to any person entitled to a grant of lands by way of subsidy for the construction of railways or otherwise or to any railway company for grants of land for right of way, road bed, stations, station grounds, workshops, buildings, yards, ballast pits or other appurtenances.

5. The Province will further be bound by and will, with respect to any lands or interests in lands to which the Hudson's Bay Company may be entitled, carry out the terms and conditions of the Deed of Surrender from the said Company to the Crown as modified by the *Dominion Lands Act* and the Agreement dated the 23rd day of December, 1924, between His Majesty and the said Company, which said Agreement was approved by Order in Council dated the 19th day of December, 1924 (P.C. 2158), and in particular the Province will grant to the Company any lands in the Province which the Company may be entitled to select and may select from the lists of lands furnished to the Company by the Minister of the Interior under and pursuant to the said Agreement of the 23rd day of December, 1924, and will release and discharge the reservation in patents referred to in clause three of the said agreement, in case such release and discharge has not been made prior to the coming into force of this agreement. Nothing in this agreement, or in any agreement varying the same as

hereinafter provided, shall in any way prejudice or diminish the rights of the Hudson's Bay Company or affect any right to or interest in land acquired or held by the said Company pursuant to the Deed of Surrender from it to the Crown, the Dominion Lands Act or the said Agreement of the 23rd day of December, 1924.

SCHOOL LANDS FUND AND SCHOOL LANDS.

6. Upon the coming into force of this Agreement, Canada will transfer to the Province the money or securities constituting that portion of the school lands fund, created under sections twenty-two and twenty-three of *The Act to amend and consolidate the several Acts respecting Public Lands of the Dominion*, being chapter thirty-one of forty-two Victoria, and subsequent statutes, which is derived from the disposition of any school lands within the Province or within those parts of the District of Keewatin and of the Northwest Territories now included within the boundaries of the said Province.

7. The School Lands Fund to be transferred to the Province as aforesaid and such of the school lands specified in section thirty-seven of the *Dominion Lands Act*, being chapter one hundred and thirteen of the Revised Statutes of Canada, 1927, as pass to the administration of the Province under the terms hereof, shall be set aside and shall continue to be administered by the Province in accordance, *mutatis mutandis*, with the provisions of sections thirty-seven to forty of the *Dominion Lands Act*, for the support of schools organized and carried on therein in accordance with the law of the Province.

WATER.

8. The Province will pay to Canada, by yearly payments on the first day of January in each year after the coming into force of this agreement, the proportionate part, chargeable to the development of power on the Winnipeg River within the Province, of the sums which have been or shall hereafter be expended by Canada pursuant to the agreement between the Governments of Canada and of the Provinces of Ontario and Manitoba, made on the 15th day of November, 1922, and set forth in the schedule hereto, the Convention and Protocol relating to the Lake of the Woods entered into between His Majesty and the United States of America on the 24th day of February, 1925, and the *Lac Seul Conservation Act, 1928*, being chapter thirty-two of eighteen and nineteen George the Fifth, the annual payments hereunder being so calculated as to amortise the expenditures aforesaid in a period of fifty years from the date of the coming into force of this agreement and the interest payable to be at the rate of five per cent per annum.

9. Canada agrees that the provision contained in section four of the *Dominion Water Power Act*, being chapter two hundred and ten of the Revised Statutes of Canada, 1927, that every undertaking under the said Act is declared to be a work for the general advantage of Canada, shall stand repealed as from the date of the coming into force of this agreement in

so far as the same applies to such undertakings within the Province; nothing in this paragraph shall be deemed to affect the legislative competence of the Parliament of Canada to make hereafter any declaration under the tenth head of section ninety-two of the *British North America Act, 1867*.

FISHERIES.

10. Except as herein otherwise provided, all rights of fishery shall, after the coming into force of this agreement, belong to and be administered by the Province, and the Province shall have the right to dispose of all such rights of fishery by sale, licence or otherwise, subject to the exercise by the Parliament of Canada of its legislative jurisdiction over sea-coast and inland fisheries.

INDIAN RESERVES.

11. All lands included in Indian reserves within the Province, including those selected and surveyed but not yet confirmed, as well as those confirmed, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, and the Province will from time to time, upon the request of the Superintendent General of Indian Affairs, set aside, out of the unoccupied Crown lands hereby transferred to its administration, such further areas as the said Superintendent General may, in agreement with the Minister of Mines and Natural Resources of the Province, select as necessary to enable Canada to fulfil its obligations under the treaties with the Indians of the Province, and such areas shall thereafter be administered by Canada in the same way in all respects as if they had never passed to the Province under the provisions hereof.

12. The provisions of paragraphs one to six inclusive and of paragraph eight of the agreement made between the Government of the Dominion of Canada and the Government of the Province of Ontario on the 24th day of March, 1924, which said agreement was confirmed by statute of Canada, fourteen and fifteen George the Fifth chapter forty-eight, shall (except so far as they relate to the *Bed of Navigable Waters Act*) apply to the lands included in such Indian reserves as may hereafter be set aside under the last preceding clause as if the said agreement had been made between the parties hereto, and the provisions of the said paragraphs shall likewise apply to the lands included in the reserves heretofore selected and surveyed, except that neither the said lands nor the proceeds of the disposition thereof shall in any circumstances become administrable by or be paid to the Province.

13. In order to secure to the Indians of the Province the continuance of the supply of game and fish for their support and subsistence, Canada agrees that the laws respecting game in force in the Province from time to time shall apply to the Indians within the boundaries thereof, provided, however, that the said Indians shall have the right, which the Province

hereby assures to them, of hunting, trapping and fishing game and fish for food at all seasons of the year on all unoccupied Crown lands and on any other lands to which the said Indians may have a right of access.

SOLDIER SETTLEMENT LANDS.

14. All interests in Crown lands in the Province upon the security of which any advance has been made under the provisions of the *Soldier Settlement Act*, being chapter 188 of the Revised Statutes of Canada, 1927, and amending Acts, shall continue to be vested in and administered by the Government of Canada for the purposes of Canada.

NATIONAL PARK.

15. The lands specified as included in the Riding Mountain Forest Reserve, as such reserve is described in the schedule to the *Dominion Forest Reserves and Parks Act*, being chapter seventy-eight of the Revised Statutes of Canada, 1927, as amended by eighteen and nineteen George the Fifth chapter twenty, shall be established as a national park, and the said lands, together with the mines and minerals (precious and base) in such area and the royalties incident thereto shall continue to be vested in and shall be administered by the Government of Canada for the purposes of a national park, but in the event of the Parliament of Canada at any time declaring that the said lands or any part thereof are no longer required for such purposes, the lands, mines, minerals (precious and base) and the royalties incident thereto, specified in any such declaration, shall forthwith upon the making thereof belong to the Province, and the provisions of paragraph three of this agreement shall apply thereto as from the date of such declaration.

16. The Parliament of Canada shall have exclusive legislative jurisdiction within the whole area included within the outer boundaries of the said park, notwithstanding that portions of such area may not form part of the park proper; the laws now in force within the said area shall continue in force only until changed by the Parliament of Canada or under its authority, provided, however, that all laws of the Province now or hereafter in force, which are not repugnant to any law or regulation made applicable within the said area by or under the authority of the Parliament of Canada, shall extend to and be enforceable within the same, and that all general taxing acts passed by the Province shall apply within the same unless expressly excluded from application therein by or under the authority of the Parliament of Canada.

SEED GRAIN, ETC., LIENS.

17. Every lien upon any interest in any unpatented land passing to the Province under this agreement, which is now held by Canada as security for an advance made by Canada for seed grain, fodder or other relief, shall continue to be vested in Canada, but the Province will, on behalf of Canada, collect

the sums due in respect of such advances, except so far as the same are agreed to be uncollectible, and upon payment of any advance, any document required to be executed to discharge the lien may be executed by such officer of the Province as may be authorized by any provincial law in that behalf; the Province will account for and pay to Canada all sums belonging to Canada collected hereunder, subject to such deduction to meet the expenses of collection as may be agreed upon between the Minister of the Interior and the Minister of Mines and Natural Resources or such other Minister of the Province as may be designated in that behalf under the laws thereof.

GENERAL RESERVATION TO CANADA.

18. Except as herein otherwise expressly provided, nothing in this agreement shall be interpreted as applying so as to affect or transfer to the administration of the Province (a) any lands for which Crown grants have been made and registered under the *Real Property Act* of the Province and of which His Majesty the King in the right of His Dominion of Canada is, or is entitled to become the registered owner at the date upon which this agreement comes into force, or (b) any ungranted lands of the Crown upon which public money of Canada has been expended or which are, at the date upon which this agreement comes into force, in use or reserved by Canada for the purpose of the federal administration.

HISTORIC SITES, BIRD SANCTUARIES, ETC.

19. The Province will not dispose of any historic site which is notified to it by Canada as such and which Canada undertakes to maintain as an historic site. The Province will further continue and preserve as such the bird sanctuaries and public shooting grounds which have been already established and will set aside such additional bird sanctuaries and public shooting grounds as may hereafter be established by agreement between the Minister of the Interior and the Minister of Mines and Natural Resources, or such other Minister of the Province as may be specified under the laws thereof.

FINANCIAL TERMS.

20. In lieu of the provision made by section five of the statute two George the Fifth chapter thirty-two above referred to, Canada will, from and after the date of the coming into force of this agreement, pay to the Province by half-yearly payments in advance, on the first days of January and July in each year, an annual sum based upon the population of the Province as from time to time ascertained by the quinquennial census thereof, as follows:—

The sum payable until the population of the said Province reaches eight hundred thousand shall be five hundred and sixty-two thousand five hundred dollars;

Thereafter, until such population reaches one million two hundred thousand, the sum payable shall be seven hundred and fifty thousand dollars;

And thereafter the sum payable shall be one million one hundred and twenty-five thousand dollars.

21. If at the date of the coming into force of this agreement any payment has been made under the provisions of section five of the statute two George the Fifth chapter thirty-two above referred to in respect of any half-year commencing before but terminating, after the said date, a proportionate part of the payment so made shall be taken as having been made under the provisions hereof.

22. In order to provide an adequate financial readjustment in favour of the Province for the period intervening between its entrance into Confederation in 1870 and the first day of July, 1908, before which date it received either no subsidy in lieu of public lands or a smaller subsidy than it should have received in order to put it on an equality with the other Provinces, Canada, forthwith after the coming into force of this agreement, will, in accordance with the report of the hereinbefore recited Commission, pay to the said Province the sum of four million, five hundred and eighty-four thousand two hundred and twelve dollars and forty-nine cents with interest thereon at the rate of five per cent per annum from the first day of July, 1929.

RECORDS.

23. Canada will after the coming into force of this agreement, deliver to the Province from time to time at the request of the Province the originals or complete copies of all records in any department of the Government of Canada relating exclusively to dealings with Crown lands, mines and minerals, and royalties derived therefrom within the Province, and will give to the Province access to all other records, documents or entries relating to any such dealings and permit to be copied by the Province any of the documents required by it for the effective administration of the Crown lands, mines, minerals and royalties.

AMENDMENT OF AGREEMENT.

24. The foregoing provisions of this agreement may be varied by agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province.

WHEN AGREEMENT COMES INTO FORCE.

25. This agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Manitoba, and shall take effect on the fifteenth day of July, 1930, if His Majesty has theretofore given His Assent to an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland confirming the same, and if He has not given such Assent before the said day, then on such date as may be agreed upon.

In witness whereof the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior, have hereunto set their hands on behalf of the Dominion of Canada, and the Honourable John Bracken, Premier of Manitoba, and the Honourable Donald G. McKenzie, Minister of Mines and Natural Resources thereof, have hereunto set their hands on behalf of the Province of Manitoba.

Signed on behalf of the Government of Canada by the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior, in the presence of

O. M. BIGGAR.

ERNEST LAPOINTE.

CHAS. STEWART.

Signed on behalf of the Province of Manitoba by the Honourable John Bracken, Premier of the said Province, and the Honourable Donald G. McKenzie, Minister of Mines and Natural Resources thereof, in the presence of

W. J. MAJOR

JOHN BRACKEN.

DONALD G. MCKENZIE.

SCHEDULE.

AGREEMENT BETWEEN CANADA, ONTARIO AND MANITOBA.

OTTAWA, November 15, 1922.

MEMORANDUM: of agreement arrived at regarding the control of the upper waters of the Winnipeg River.

PRESENT:

Representing the Dominion Government

Right Honourable Mackenzie King, Prime Minister;
Honourable Charles Stewart, Minister of the Interior; Mr. W. W. Cory, Deputy Minister of the Interior.

In attendance

Mr. W. J. Stewart and Mr. J. B. Challies, Consulting Engineers to the Department of External Affairs; Mr. S. S. Scovil, Engineer of Lake of the Woods Control Board.

Representing the Province of Ontario

Honourable E. C. Drury, Premier.

In attendance

Mr. H. G. Acres and Mr. L. V. Rorke.

Representing the Province of Manitoba

Honourable John Bracken, Premier.
Honourable R. W. Craig, Attorney-General; also
Honourable T. H. Johnson, K.C., Counsel.

This agreement, as a working basis for the regulation of the English and Winnipeg rivers, is entered into on the understanding that all parties are agreeable to the repeal of the Lake of the Woods Regulation Act 1920, but Ontario does not bind itself to the terms of this agreement in the event of that Act not being repealed.

The Government representatives agreed that the general advantage legislation could be rescinded on the following basis (Mr. Bracken undertaking to urge the acceptance thereof by the Manitoba power interests):

1. Control of Lake of the Woods

The recommendation of the Lake of the Woods Control Board that the Norman Dam be expropriated was agreed to in principle.

It was further understood that the Board should immediately investigate and report to the three governments concerned, whether,

(1) There is some alternative method of securing control by construction of a new structure above the present dam or otherwise;

(2) Failing such an alternative being found, under what procedure and whether under Federal or Provincial auspices should the dam be expropriated.

The cost of securing the results contemplated under either (1) or (2) above should be borne on the following basis,—

One-third of the total cost to be attributable to navigation and borne by the Federal Government;

The remaining two-thirds to be considered chargeable to power, to be borne in the first instance by the expropriating Government, but

- (a) Ontario to be responsible for the share chargeable to the undeveloped power site at White Dog Falls;
- (b) The Federal Government (as proprietors of the water powers on the Winnipeg river in Manitoba) to be responsible in the first instance for the amount chargeable to the remaining fall of the Winnipeg river in the Province of Manitoba; the Department of the Interior to recover cost of same from the present power developments on the river and from prospective power developments on such basis as that Department may consider advisable.

So far as the amount chargeable to power is concerned, the basis of settlement between the Dominion Government and the Province of Ontario should be that of the ratio of potential head in Ontario and Manitoba.

2. *Regulation under Concurrent Legislation*

It was agreed that the Lake of the Woods Control Board should be instructed to immediately canvass the necessities of the situation and make appropriate recommendations to the Governments of Canada and Ontario with a view to having approved and authorized whatever operating regulations are considered necessary to make practically effective the existing concurrent legislation.

3. *Lac Seul*

With regard to storage on Lac Seul, it is agreed that if the power interests in Manitoba or their administrative agency desire storage on Lac Seul, they shall immediately notify the Government of Ontario to this effect. In the event of such notification the Government of Ontario shall undertake not to permit the construction of any development which would later be destroyed, wholly or in part, by the creation of this storage, and shall agree to grant flooding rights, on Crown Lands affected, under the customary conditions, including recompense for timber destroyed, and the usual rental for water powers which may be wholly or partially destroyed incidental to the construction of the said works. Further, the power interests benefited shall be prepared, when required by the Government of Ontario, to pay the said Government an amount to be ascertained by the

Control Board, sufficient to pay the difference between the cost of power feasible of development at Pelican Falls and the cost of a similar amount of power to be developed at some other possible site designated by the Government of Ontario and delivered at Sioux Lookout at a distribution voltage.

It is agreed that whatever storage scheme may be worked out covering Lac Seul shall be under the jurisdiction of the Lake of the Woods Control Board, the cost of the same to be borne by the power interests as and when benefited.

4. *International Questions*

With regard to the international issues it was unanimously agreed that there was not sufficient data to enable a commitment at the present stage with regard to storage and regulation on Rainy and upper international lakes, and that in any case all the interests concerned, governmental, municipal, corporate and private, on both sides of the boundary, should be afforded the opportunity and the advantage of presenting their views, and of hearing the views of others presented, to the International Joint Commission.

It was further agreed that the basis for an international arrangement between the two countries arrived at by the technical advisers of the United States and Canada at Washington in December, should be adhered to, namely,—

- (a) An immediate settlement by treaty of the Lake of the Woods issues; and
- (b) Concurrent with the ratification of such a treaty, an appropriate reference to the International Joint Commission respecting Rainy and upper lakes matters.

It was further agreed that once a reference of the upper lakes matter has been agreed to, the Canadian Governments, Dominion and Provincial, should facilitate in every possible way, a thorough investigation and an early report by the International Joint Commission, but that pending such a report, the Dominion Government could not make any commitment as to policy.

With regard to financial obligations arising under settlement of the Lake of the Woods issues it was agreed that the same should be borne by the respective Governments on the same basis as that set out above for the acquirement of the Norman Dam.

(Sgd.) E. C. DRURY,
For the Government of Ontario.

(Sgd.) JOHN BRACKEN,
For the Government of Manitoba.

(Sgd.) W. L. MACKENZIE KING,
For the Government of Canada.

THE MANITOBA NATURAL RESOURCES TRANSFER (AMENDMENT) ACT, 1948.⁽¹⁷⁹⁾

11-12 GEORGE VI, CHAPTER 60.

An Act to amend The Manitoba Natural Resources Act.

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1930, c. 29;
1938, c. 36.

1. This Act may be cited as *The Manitoba Natural Resources Transfer (Amendment) Act, 1948*. Short title.

2. The Agreement set out in the Schedule is hereby confirmed and shall take effect according to its terms. Agreement confirmed.

SCHEDULE.

MEMORANDUM OF AGREEMENT made the nineteenth day of April, A.D. 1948.

BETWEEN

THE GOVERNMENT OF CANADA, represented herein by the Honourable James Angus MacKinnon, Acting Minister of Mines and Resources,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF MANITOBA, represented herein by the Honourable John Stewart McDiar- mid, Minister of Mines and Natural Resources,

Of the second part,

Whereas the agreement entered into between the parties hereto on the 14th day of December, A.D. 1929 (hereinafter referred to as the Natural Resources Transfer Agreement) was duly approved by the Parliament of Canada and the Legislature

⁽¹⁷⁹⁾ In July, 1947, the Government of Manitoba appointed a Commission to enquire into matters relating to water power in Manitoba. In March, 1948, the Commission recommended, among other things, the consolidation in a single Provincial agency of exclusive responsibility for the development and operation of all hydro electric power plants in Manitoba. To carry out this recommendation the Government of Manitoba considered it desirable to enact legislation with respect to the expropriation of any property, works, plant, lands, easements, rights, privileges, machinery, installations, materials, devices, fittings, apparatus, appliances and equipment constructed, acquired or used in the generation, development or transmission of electrical power and energy in Manitoba, or in the taking, use, diversion, storage or pondage of water for any of the said purposes.

To remove any doubt as to the power of the Government of Manitoba to do so, an amendment was required to clause 2 of the Manitoba Natural Resources Transfer Agreement.

The necessary amendment to section 2 is embodied in an agreement between the Government of Canada and the Government of Manitoba, which was approved by Order in Council P.C. 1719, dated 17th April, 1948, and which appears as a schedule to the bill. This agreement was previously confirmed by the Legislature of Manitoba.

of the Province, and upon an address to His Majesty from the Senate and House of Commons of Canada, was confirmed and declared to have the force of law by an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland entitled "The British North America Act, 1930", assented to on 10th July, 1930, being chapter twenty-six of the Imperial Statutes, 20-21 George V;

And whereas by paragraph twenty-four of the said Natural Resources Transfer Agreement it was agreed that the provisions of the said agreement might be varied by an agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province;

And whereas the said Natural Resources Transfer Agreement came into force pursuant to the provisions thereof, on the 15th day of July, 1930;

And whereas the provisions of the said Natural Resources Transfer Agreement were, pursuant to the provisions of said paragraph twenty-four thereof, varied by an agreement made between the Government of Canada of the first part and the Government of the Province of Manitoba of the second part, on the 5th day of March, A.D. 1938, and confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province;

And whereas by paragraph two of the Natural Resources Transfer Agreement, the Province agreed that it would carry out, in accordance with the terms thereof every contract to purchase or lease any Crown lands, mines or minerals and every other arrangement whereby any person had become entitled to any interest therein as against the Crown, and further agreed not to affect or alter any term of any such contract to purchase, lease or other arrangement by legislation or otherwise, except either with the consent of all the parties thereto, other than Canada, or in so far as any legislation may apply generally to all similar agreements relating to lands, mines or minerals in the Province or to interests therein, irrespective of who might be the parties thereto;

And whereas it has been agreed between Canada and the said Province that the terms of said paragraph two should be further varied as herein set out;

Now therefore this Agreement witnesseth that:

1. Paragraph two of the said Natural Resources Transfer Agreement is varied by adding at the end thereof, the following words:

"or except in so far as any legislation

(a) is legislation relating to the control and regulation of the generation, development, transformation, transmission, utilization, distribution, supply, delivery, dealing in, sale and use of electrical power and energy in Manitoba, and of the flow and right to the use, for the generation and development of such power and

energy, or any other purpose connected therewith, of the water at any time in any river, stream, water-course, lake, creek, spring, ravine, canyon, lagoon, swamp, marsh or other body of water within the Province and the taking, diversion, storage or pondage of such water for any of the said purposes, whether by restriction, prohibition or otherwise and whether generally or with respect to any specified area therein;

or

- (b) is legislation providing for the taking, acquisition and purchase by agreement or compulsorily or otherwise or by expropriation of any indentures, agreements, arrangements, permits, interim permits, final licences, licences, interim licences, leases, interim leases, rights, liberties, privileges, easements, benefits, advantages or other concessions of any person of whatever nature, in relation to the flow and right to the use of the said water or the taking, diversion, storage or pondage thereof for the generation and development of electric power and energy, the utilization, transmission, distribution and sale of such power and energy, the occupation and use of Crown lands of the Province for the maintenance and operation of hydro-electric and other works of any person and any other rights, liberties, privileges, easements, benefits, advantages and concessions connected therewith or incidental or appurtenant thereto;

or

- (c) is legislation providing for the taking, acquisition and purchase by agreement or compulsorily or otherwise or by expropriation of any property, works, plant, lands, easements, rights, privileges, machinery, installations, materials, devices, fittings, apparatus, appliances and equipment of any person constructed, acquired or used in the generation, development or transmission of such power and energy or in the taking, use, diversion, storage or pondage of said water, and whether generally in the said Province or in any specified area therein."

2. This agreement is made subject to its being confirmed by the Parliament of Canada and by the Legislature of the Province of Manitoba, and shall take effect on the first day of the calendar month beginning next after its confirmation as aforesaid, whichever approval, that of the Parliament of Canada or that of the Legislature of the Province, shall be later in date.

In witness whereof the Honourable James Angus MacKinnon, Acting Minister of Mines and Resources, has hereunto set his hand on behalf of the Dominion of Canada; and the Honourable John Stewart McDiarmid, Minister of Mines and Natural Resources, has hereunto set his hand on behalf of the Province of Manitoba.

Signed on behalf of the Government of
Canada by the Honourable James
Angus MacKinnon, Acting Minister
of Mines and Resources,

JAS. A. MACKINNON.

in the presence of:

A. C. L. ADAMS.

Signed on behalf of the Government of
Manitoba by the Honourable John
Stewart McDiarmid, Minister of Mines
and Natural Resources,

J. S. MCDIARMID.

in the presence of:

D. M. STEPHENS.

THE SASKATCHEWAN NATURAL RESOURCES ACT.

20-21 GEORGE V, CHAPTER 41.

An Act respecting the transfer of the Natural Resources of Saskatchewan.⁽¹⁸⁰⁾

[Assented to 30th May, 1930.]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as *The Saskatchewan Natural Resources Act*.

Short title.

2. The agreement set out in the schedule hereto is hereby approved.

Agreement confirmed.

SCHEDULE.

MEMORANDUM OF AGREEMENT.

Made this 20th day of March, 1930.

BETWEEN

THE GOVERNMENT OF THE DOMINION OF CANADA, represented herein by the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF SASKATCHEWAN, represented herein by the Honourable James Thomas Milton Anderson, Premier and Minister of Education of the Province, and the Honourable Murdoch Alexander MacPherson, Attorney-General,

Of the second part.

Whereas by section twenty-one of the *Saskatchewan Act*, being chapter forty-two of the four and five Edward the Seventh, it was provided that "All Crown lands, mines and minerals and royalties incident thereto, and the interest of the Crown in the waters within the Province under the *North-West Irrigation Act, 1898*, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, subject to the provisions of any Act of the Parliament of Canada with respect to road allowances and roads or trails in force immediately before the coming into force of this Act, which shall apply to the said Province with the substitution therein of the said Province for the North-West Territories;"

⁽¹⁸⁰⁾ See Note respecting The Saskatchewan Natural Resources at page 324 of this volume.

And whereas the Government of Canada desires that the Province should be placed in a position of equality with the other provinces of Confederation with respect to the administration and control of its natural resources as from its entry into Confederation in 1905;

And whereas the Government of the Province contends that, before the Province was constituted and entered into Confederation as aforesaid, the Parliament of Canada was not competent to enact that the natural resources within the area now included within the boundaries of the Province should vest in the Crown and be administered by the Government of Canada for the purposes of Canada and was not entitled to administer the said natural resources otherwise than for the benefit of the residents within the said area, and moreover that the Province is entitled to be and should be placed in a position of equality with the other Provinces of Confederation with respect to its natural resources as from the fifteenth day of July, 1870, when Rupert's Land and the North-Western Territory were admitted into and became part of the Dominion of Canada:

And whereas it has been agreed between Canada and the said Province that the said section of the *Saskatchewan Act* should be modified and that provision should be made for the determination of the respective rights and obligations of Canada and the Provinces as herein set out;

Now Therefore This Agreement Witnesseth:

TRANSFER OF PUBLIC LANDS GENERALLY.

1. In order that the Province may be in the same position as the original Provinces of Confederation are in virtue of section one hundred and nine of the *British North America Act, 1867*, the interest of the Crown in all Crown lands, mines, minerals (precious and base) and royalties derived therefrom within the Province, and all sums due or payable for such lands, mines, minerals or royalties, shall from and after the coming into force of this agreement and subject as therein otherwise provided, belong to the Province, subject to any trusts existing in respect thereof, and to any interest other than that of the Crown in the same, and the said lands, mines, minerals and royalties shall be administered by the Province for the purposes thereof, subject, until the Legislature of the Province otherwise provides, to the provisions of any Act of the Parliament of Canada relating to such administration; any payment received by Canada in respect of any such lands, mines, minerals or royalties before the coming into force of this agreement shall continue to belong to Canada whether paid in advance or otherwise, it being the intention that, except as herein otherwise specially provided, Canada shall not be liable to account to the Province for any payment made in respect of any of the said lands, mines, minerals, or royalties before the coming into force of this agreement, and that the Province shall not be liable to account to Canada for any such payment made thereafter.

2. The Province will carry out in accordance with the terms thereof every contract to purchase or lease any Crown lands, mines or minerals and every other arrangement whereby any person has become entitled to any interest therein as against the Crown, and further agrees not to affect or alter any term of any such contract to purchase, lease or other arrangement by legislation or otherwise, except either with the consent of all the parties thereto other than Canada or in so far as any legislation may apply generally to all similar agreements relating to lands, mines or minerals in the Province or to interests therein, irrespective of who may be the parties thereto.

3. Any power or right, which, by any such contract, lease or other arrangement, or by any Act of the Parliament of Canada relating to any of the lands, mines, minerals or royalties hereby transferred or by any regulation made under any such Act, is reserved to the Governor in Council or to the Minister of the Interior or any other officer of the Government of Canada, may be exercised by such officer of the Government of the Province as may be specified by the Legislature thereof from time to time, and until otherwise directed, may be exercised by the Provincial Secretary of the Province.

4. The Province will perform every obligation of Canada, arising by virtue of the provisions of any statute or Order in Council or regulation in respect of the public lands to be administered by it hereunder, to any person entitled to a grant of lands by way of subsidy for the construction of railways or otherwise or to any railway company for grants of lands for right of way, road bed, stations, station grounds, workshops, buildings, yards, ballast pits or other appurtenances.

5. The Province will further be bound by and will, with respect of any lands or interests in lands to which the Hudson's Bay Company may be entitled, carry out the terms and conditions of the Deed of Surrender from the said Company to the Crown as modified by the *Dominion Lands Act* and the agreement dated the 23rd day of December, 1924, between His Majesty and the said Company, which said Agreement was approved by Order in Council dated the 19th day of December, 1924 (P.C. 2158), and in particular the Province will grant to the Company any lands in the Province which the Company may be entitled to select and may select them from the lists of lands furnished to the Company by the Minister of the Interior under and pursuant to the said agreement of the 23rd day of December, 1924, and will release and discharge the reservation in patents referred to in clause three of the said agreement, in case such release and discharge has not been made prior to the coming into force of this agreement. Nothing in this agreement, or in any agreement varying the same as hereinafter provided, shall in any way prejudice or diminish the rights of the Hudson's Bay Company or affect any right to or interest in land acquired or held by the said Company pursuant to the Deed of Surrender from it to the Crown, the *Dominion Lands Act* or the said agreement of the 23rd day of December, 1924.

SCHOOL LANDS FUND AND SCHOOL LANDS.

6. Upon the coming into force of this agreement, Canada will transfer to the Province the money or securities constituting that portion of the school lands fund, created under sections twenty-two and twenty-three of the *Act to amend and consolidate the several Acts respecting Public Lands of the Dominion*, being chapter thirty-one of forty-two Victoria, and subsequent statutes, which is derived from the disposition of any school lands within the Province or within that part of the Northwest Territories now included within the boundaries thereof.

7. The school lands fund to be transferred to the Province as aforesaid, and such of the school lands specified in section thirty-seven of the *Dominion Lands Act*, being chapter one hundred and thirteen of the *Revised Statutes of Canada, 1927*, as pass to the administration of the Province, under the terms hereof, shall be set aside and shall continue to be administered by the Province in accordance, *mutatis mutandis*, with the provisions of sections thirty-seven to forty of the *Dominion Lands Act*, for the support of schools organized and carried on therein in accordance with the law of the Province.

WATER.

8. Canada agrees that the provision contained in section four of the *Dominion Water Power Act*, being chapter two hundred and ten of the *Revised Statutes of Canada, 1927*, that every undertaking under the said Act is declared to be a work for the general advantage of Canada, shall stand repealed as from the date of the coming into force of this agreement in so far as the same applies to undertakings within the Province; nothing in this paragraph shall be deemed to affect the legislative competence of the Parliament of Canada to make hereafter any declaration under the tenth head of section ninety-two of the *British North America Act, 1867*.

FISHERIES.

9. Except as herein otherwise provided, all rights of fishery shall, after the coming into force of this agreement, belong to and be administered by the Province, and the Province shall have the right to dispose of all such rights of fishery by sale, licence or otherwise, subject to the exercise by the Parliament of Canada and its legislative jurisdiction over sea-coast and inland fisheries.

INDIAN RESERVES.

10. All lands included in Indian reserves within the Province, including those selected and surveyed but not yet confirmed, as well as those confirmed, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, and the Province will from time to time, upon the request of the Superintendent General of Indian Affairs, set aside, out of the unoccupied Crown lands hereby transferred to its administration, such further areas as the said

Superintendent General may, in agreement with the appropriate Minister of the Province, select as necessary to enable Canada to fulfil its obligations under the treaties with the Indians of the Province, and such areas shall thereafter be administered by Canada in the same way in all respects as if they had never passed to the Province under the provisions hereof.

11. The provisions of paragraphs one to six inclusive and of paragraph eight of the agreement made between the Government of the Dominion of Canada and the Government of the Province of Ontario on the 24th day of March, 1924, which said agreement was confirmed by statute of Canada, fourteen and fifteen George the Fifth chapter forty-eight, shall (except so far as they relate to the *Bed of Navigable Waters Act*) apply to the lands included in such Indian reserves as may hereafter be set aside under the last preceding clause as if the said agreement had been made between the parties hereto, and the provisions of the said paragraphs shall likewise apply to the lands included in the reserves heretofore selected and surveyed, except that neither the said lands nor the proceeds of the disposition thereof shall in any circumstances become administrable by or be paid to the Province.

12. In order to secure to the Indians of the Province the continuance of the supply of game and fish for their support and subsistence, Canada agrees that the laws respecting game in force in the Province from time to time shall apply to the Indians within the boundaries thereof, provided, however, that the said Indians shall have the right, which the Province hereby assures to them, of hunting, trapping and fishing game and fish for food at all seasons of the year on all unoccupied Crown lands and on any other lands to which the said Indians may have a right of access.

SOLDIER SETTLEMENT LANDS.

13. All interest in Crown lands in the Province upon the security of which any advance has been made under the provisions of the *Soldier Settlement Act*, being chapter 188 of the *Revised Statutes of Canada, 1927*, and amending Acts, shall continue to be vested in and administered by the Government of Canada for the purposes of Canada.

NATIONAL PARKS.

14. The Prince Albert National Park shall continue as a national park and the lands included therein as the same are described in Orders made by the Governor in Council on the twenty-fourth day of March, 1927 (P.C. 524), the eighteenth day of October, 1928 (P.C. 1846) and the sixth day of February, 1929 (P.C. 162), together with the mines and minerals (precious and base) in the said park and the royalties incident thereto, shall continue to be vested in and administered by the Government of Canada as a national park, but in the event of the Parliament of Canada at any time declaring that the said land or any part thereof is no longer required for park purposes, the lands, mines, minerals (precious and base) and the royalties

incident thereto, specified in any such declaration, shall forthwith upon the making thereof belong to the Province, and the provisions of paragraph three of this agreement shall apply thereto as from the date of such declaration.

15. The Parliament of Canada shall have exclusive legislative jurisdiction within the whole area included within the outer boundaries of the said park, notwithstanding that portions of the said area may not form part of the park proper; the laws now in force within the said area shall continue in force only until changed by the Parliament of Canada or under its authority, provided, however, that all laws of the Province now or hereafter in force, which are not repugnant to any law or regulation made applicable within the said area by or under the authority of the Parliament of Canada, shall extend to and be enforceable within the same, and that all general taxing Acts passed by the Province shall apply within the same unless expressly excluded from application therein by or under the authority of the Parliament of Canada.

16. The Province will not, by works outside the boundaries of the said park, reduce the flow of water in any of the rivers or streams within the same to less than that which the Minister of the Interior may deem necessary adequately to preserve the scenic beauties of the said park.

17. In the event of its being hereafter agreed by Canada and the Province that any area or areas of land in the Province, in addition to that hereinbefore specified, should be set aside as national parks and be administered by Canada, the foregoing provisions of this agreement on the subject of parks may be applied to such area or areas with such modification as may be agreed upon.

SEED GRAIN, ETC., LIENS.

18. Every lien upon every interest in any unpatented land passing to the Province under this agreement, which is now held by Canada as security for an advance made by Canada for seed grain, fodder or other relief, shall continue to be vested in Canada, but the Province will, on behalf of Canada, collect the sums due in respect of such advances, except so far as the same are agreed to be uncollectible, and upon payment of any such advance, any document required to be executed to discharge the lien may be executed by such officer of the Province as may be authorized by any provincial law in that behalf; the Province will account for and pay to Canada all sums belonging to Canada collected hereunder, subject to such deduction to meet the expenses of collection as may be agreed upon between the Minister of the Interior and the Provincial Secretary or such other Minister of the Province as may be designated in that behalf under the laws thereof.

GENERAL RESERVATION TO CANADA.

19. Except as herein otherwise expressly provided, nothing in this agreement shall be interpreted as applying so as to affect or transfer to the administration of the Province (a) any

lands for which Crown grants have been made and registered under the *Land Titles Act* of the Province and of which His Majesty the King in the right of His Dominion of Canada is, or is entitled to become the registered owner at the date upon which this agreement comes into force, or (b) any ungranted lands of the Crown upon which public money of Canada has been expended or which are, at the date upon which this agreement comes into force, in use or reserved by Canada for the purpose of the federal administration.

HISTORIC SITES, BIRD SANCTUARIES, ETC.

20. The Province will not dispose of any historic site which is notified to it by Canada as such and which Canada undertakes to maintain as an historic site. The Province will further continue and preserve as such the bird sanctuaries and public shooting grounds which have been already established and will set aside such additional bird sanctuaries and public shooting grounds as may hereafter be established by agreement between the Minister of the Interior and the Provincial Secretary or such other Minister of the Province as may be specified under the laws thereof.

FINANCIAL TERMS.

21. In lieu of the provision made by subsection one of section twenty of the *Saskatchewan Act*, Canada will, from and after the date of the coming into force of this agreement, pay to the Province by half-yearly payments in advance, on the first days of January and July in each year, an annual sum based upon the population of the Province as from time to time ascertained by the quinquennial census thereof, as follows:

The sum payable until such population reaches one million two hundred thousand shall be seven hundred and fifty thousand dollars;

And thereafter the sum payable shall be one million one hundred and twenty-five thousand dollars.

22. If at the date of the coming into force of this agreement any payment has been made under subsection one of section twenty of the *Saskatchewan Act* in respect of any half-year commencing before but terminating after the said date, a proportionate part of the payment so made shall be taken as having been made under the provisions hereof.

23. Provision will be made pursuant to section fifty-five of the *Supreme Court Act*, being chapter thirty-five of the *Revised Statutes of Canada, 1927*, to submit for the consideration of the Supreme Court of Canada questions agreed upon between the parties hereto as being appropriate to obtain the judgment of the said Court, subject to appeal to His Majesty in Council in accordance with the usual practice, as to the rights of Canada and the Province respectively, before the first day of September, 1905, in or to the lands, mines or minerals (precious or base), now lying within the boundaries of the Province, and as to any alienation by Canada before the said date of any of the said lands, mines or minerals or royalties incident thereto.

24. As soon as final answers to the questions submitted upon the last preceding paragraph have been given, the Government of Canada will appoint three persons to be agreed upon to be Commissioners under Part I of the *Inquiries Act*, to inquire and report whether any, and if any, what consideration, in addition to the sums provided in paragraph twenty-one hereof, shall be paid to the Province in order that the Province may be placed in a position of equality with the other provinces of Confederation with respect to the administration and control of its natural resources either as from the first day of September, 1905, or as from such earlier date, if any, as may appear to be proper, having regard to the answers to the questions submitted as aforesaid; such commissioners to be empowered to decide what financial or other considerations are relevant to the inquiry and the report to be submitted to the Parliament of Canada and to the Legislature of Saskatchewan, if by the said report, the payment of any additional consideration is recommended, then, upon agreement between the Governments of Canada and of the Province following the submission of such report, the said Governments will respectively introduce the legislation necessary to give effect to such agreement.

RECORDS.

25. Canada will, after the coming into force of this agreement, deliver to the Province from time to time at the request of the Province the originals or complete copies of all records in any department of the Government of Canada relating exclusively to dealings with Crown lands, mines and minerals, and royalties derived therefrom within the Province, and will give to the Province access to all other records, documents or entries relating to any such dealings and permit to be copied by the Province any of the documents required by it for the effective administration of the Crown lands, mines, minerals and royalties.

AMENDMENT OF AGREEMENT.

26. The foregoing provisions of this agreement may be varied by agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province.

RESERVATION OF RIGHTS.

27. This agreement is signed on behalf of the Province with the reservation on its part that neither the execution thereof nor any statute confirming the same shall affect or prejudice any right the Province may now have to call into question the legislative competence of the Parliament of Canada to enact certain sections of the *Saskatchewan Act* and the *Dominion Lands Acts*.

WHEN AGREEMENT COMES INTO FORCE.

28. This agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Saskatchewan, and shall take effect on the first

day of the calendar month beginning next after the day upon which His Majesty gives His Assent to an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland confirming the same.

In witness whereof the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior, have hereunto set their hands on behalf of the Dominion of Canada, and the Honourable James Thomas Milton Anderson, Premier and Minister of Education of the Province, and the Honourable Murdoch Alexander MacPherson, Attorney-General thereof, have hereunto set their hands on behalf of the Province of Saskatchewan.

Signed on behalf of the Government of Canada, by the Honourable Ernest Lapointe, Minister of Justice, and the Honourable Charles Stewart, Minister of the Interior, in the presence of

O. M. BIGGAR.

ERNEST LAPOINTE.

CHAS. STEWART.

Signed on behalf of the Province of Saskatchewan by the Honourable James Thomas Milton Anderson, Premier and Minister of Education, and the Honourable Murdoch Alexander MacPherson, Attorney-General, in the presence of

JAS. F. BRYANT.

R. STIPE.

J. T. M. ANDERSON.

M. A. MACPHERSON.

THE SASKATCHEWAN NATURAL RESOURCES ACT, No. 2.

21-22 GEORGE V, CHAPTER 51.

An Act to amend The Saskatchewan Natural Resources Act.

[Assented to 3rd August, 1931.]

1930, c. 41.

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title.

1. This Act may be cited as *The Saskatchewan Natural Resources Act, No. 2*, and *The Saskatchewan Natural Resources Act*, chapter forty-one of the statutes of 1930 (first session), and this Act may be cited together as *The Saskatchewan Natural Resources Acts*.

Agreement
confirmed.

2. The agreement set out in the schedule hereto is hereby confirmed and shall take effect according to its terms.

SCHEDULE.

MEMORANDUM OF AGREEMENT.

Made this 7th day of August, 1930.

BETWEEN:

THE GOVERNMENT OF THE DOMINION OF CANADA, represented herein by the Honourable Charles Stewart, Minister of the Interior,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF SASKATCHEWAN, represented herein by the Honourable James Thomas Milton Anderson, Premier of Saskatchewan,

Of the second part.

Whereas by paragraph 26 of the agreement made between the parties hereto on the 20th day of March, 1930, it was agreed that the provisions of the said agreement might be varied by agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province,

And whereas it was further provided by certain clauses of the said agreement, more particularly paragraphs 1, 6, 8, 9, 19, 21, 22 and 25, that the relations of the parties thereto should be altered as in the said agreement specified from and after the date of the coming into force thereof, and the date

upon which it was then contemplated that it should come into force, as defined by paragraph 28, has now been ascertained as being the 1st day of August, 1930;

And whereas the Government of the Province has requested that the presently existing powers and rights of each of the parties should continue without alteration until the 1st day of October, 1930, and the parties hereto have agreed accordingly:

Now Therefore This Agreement Witnesseth that:

1. Notwithstanding anything in the said agreement contained, any expression therein contained which defines a date by reference to which the powers or rights of either of the parties are to be altered shall be read as referring to the 1st day of October, 1930, instead of to the 1st day of August in that year.

2. The Government of Canada will recommend to Parliament and the Government of the Province of Saskatchewan will recommend to the Legislature of the said Province such legislation as may be necessary to give effect to this agreement.

In Witness Whereof the Honourable Charles Stewart, Minister of the Interior, has hereunto set his hand on behalf of the Dominion of Canada, and the Honourable James Thomas Milton Anderson, Premier of Saskatchewan, has hereunto set his hand on behalf of the said Province.

Signed on behalf of the Govern- ment of Canada by the Hon- ourable Charles Stewart, Minister of the Interior,	}	CHAS. STEWART.
in the presence of: W. J. F. PRATT.		

Signed on behalf of the Prov- ince of Saskatchewan by the Honourable James Thomas Milton Anderson, Premier of the said Province,	}	J. T. M. ANDERSON.
in the presence of: W. W. CORY.		

THE SASKATCHEWAN NATURAL RESOURCES ACT, No. 3.

11 GEORGE VI, CHAPTER 45.

An Act to vary the Saskatchewan Natural Resources Agreement.

[Assented to 27th June, 1947.]

1930, c. 41;
1931, c. 51.

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title.

1. This Act may be cited as *The Saskatchewan Natural Resources Act, No. 3.*

Agreement
confirmed.

2. The Agreement set out in the Schedule to this Act is hereby confirmed and shall take effect according to its terms.

SCHEDULE.

MEMORANDUM OF AGREEMENT made this 6th day of December, 1946,

BETWEEN:

THE GOVERNMENT OF THE DOMINION OF CANADA, represented herein by the Honourable James Allison Glen, Minister of Mines and Resources,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF SASKATCHEWAN, represented herein by the Honourable Joseph Lee Phelps, Minister of Natural Resources and Industrial Development,

Of the second part.

Whereas the Agreement entered into between the parties hereto on the twentieth day of March, A.D. 1930 (hereinafter referred to as the Natural Resources Transfer Agreement), was duly approved by the Parliament of Canada and the Legislature of the Province, and upon an address to His Majesty from the Senate and House of Commons of Canada, was confirmed and declared to have the force of law by an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland entitled "The British North America Act, 1930", being chapter twenty-six of the Imperial Statutes, 20-21 George V;

And whereas by paragraph 26 of the said Natural Resources Transfer Agreement it was agreed that the provisions of the said Agreement might be varied by an Agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province;

And whereas the said Natural Resources Transfer Agreement came into force on the first day of October, A.D. 1930, in virtue of a further Agreement between the parties thereto, dated the seventh day of August, A.D. 1930, which was duly confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province;

And whereas it was provided by paragraph 20 of the said Natural Resources Transfer Agreement as follows: "The Province will not dispose of any historic site which is notified to it by Canada as such and which Canada undertakes to maintain as an historic site. The Province will further continue and preserve as such the bird sanctuaries and public shooting grounds which have been already established and will set aside such additional bird sanctuaries and public shooting grounds as may hereafter be established by agreement between the Minister of the Interior and the Provincial Secretary or such other Minister of the Province as may be specified under the laws thereof."

And whereas it has been agreed between Canada and the Province of Saskatchewan that certain public shooting grounds and bird sanctuaries which were established at the time of the making of the said National Resources Transfer Agreement and since maintained by the Province should be discontinued and that authority should also be given under certain conditions to discontinue any public shooting grounds and bird sanctuaries established pursuant to the said Agreement;

Now therefore this agreement witnesseth as follows:—

1. The said Natural Resources Transfer Agreement is hereby amended by adding after the above mentioned paragraph 20 the following new paragraph:

"20A. The Province may discontinue any bird sanctuary or public shooting ground which was transferred to the Province by virtue of this Agreement or which has since been established by the Province or which may hereafter be established by the Province pursuant to this Agreement in any case in which an agreement is entered into between the Minister of Mines and Resources of Canada and the Minister of Natural Resources and Industrial Development of Saskatchewan approved by the Governor in Council and the Lieutenant Governor in Council respectively, providing for the discontinuance of any such bird sanctuary or public shooting ground."

2. This Agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Saskatchewan, and shall take effect on the first day of the calendar month beginning next after its approval as aforesaid, whichever approval, that of the Parliament of Canada or that of the Legislature of the Province, shall be later in date.

In witness whereof the Honourable James Allison Glen, Minister of Mines and Resources, has hereunto set his hand on behalf of the Dominion of Canada; and the Honourable Joseph Lee Phelps, Minister of Natural Resources and Industrial Development, has hereunto set his hand on behalf of the Province of Saskatchewan.

Signed on behalf of the Government of
Canada by the Honourable James
Allison Glen, Minister of Mines and
Resources, in the presence of

“M. I. McEWEN.”

“J. ALLISON GLEN.”

Signed on behalf of the Government of
Saskatchewan by the Honourable
Joseph Lee Phelps, Minister of
Natural Resources and Industrial
Development, in the presence of

“E. L. PAYNTER.”

“JOSEPH LEE PHELPS.”

Note respecting The Saskatchewan Natural Resources.

The Saskatchewan Natural Resources Act, No. 4, chapter 69 of the Statutes of 1948 amended the Natural Resources Transfer Agreement contained in the Schedule to The Saskatchewan Natural Resources Act of 1930 (See page 311 of this volume) by adding to paragraph 7 of the Agreement (page 314) the following words.

“School lands may be sold to veterans qualified to participate in the benefits of the *Veterans Land Act, 1942*, and amendments thereto, under and subject to terms and conditions to be prescribed by regulations made by the Lieutenant Governor in Council”.

THE REFUNDS (NATURAL RESOURCES) ACT.

22-23 GEORGE V, CHAPTER 35.

An Act to authorize the Refund of Moneys received in connection with the administration of the Natural Resources.

[Assented to 13th May, 1932.]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as *The Refunds (Natural Resources) Act*. Short title.

2. The Governor in Council upon the recommendation of the Minister of the Interior may authorize the payment out of the Consolidated Revenue Fund of any sums of money representing dues, fees, guarantee deposits, credit balances, moneys paid for settlers' improvements, moneys held in trust, and other sums of money received in connection with the administration of the natural resources prior to the transfer thereof to the Provinces of Manitoba, British Columbia, Saskatchewan, and Alberta, respectively, which His Majesty is under any legal obligation, or, in the opinion of the Minister, concurred in by the Governor in Council, is under any equitable obligation, to refund to any person in connection with any transactions relating to the said natural resources. Authority to make refunds.

3. Within fifteen days after the commencement of each session of Parliament, the Minister of the Interior shall cause to be laid before both Houses of Parliament a statement of all moneys refunded under the authority of this Act since the last preceding session of Parliament, showing the name of each person to whom any sum of money has been so refunded, the amount of money refunded, the date of each such refund and the reason therefor. Statement to be laid before Parliament.

THE NATURAL RESOURCES TRANSFER (AMENDMENT) ACT, 1938.

2 GEORGE VI, CHAPTER 36.

**An Act to amend The Manitoba Natural Resources Act,
The Alberta Natural Resources Acts, and The Saskat-
chewan Natural Resources Acts.**

[Assented to 24th June, 1938.]

1930, c. 29;
1930, c. 3;
1931, c. 15;
1930, c. 41;
1931, c. 51.

HIS Majesty, by and with the advice and consent of the
Senate and House of Commons of Canada, enacts as follows:—

Short title.

1. This Act may be cited as *The Natural Resources Transfer
(Amendment) Act, 1938.*

Agreements
confirmed.

2. The Agreements set out in the Schedule to this Act are
hereby confirmed and shall have and take effect according to
their respective terms.

Construction.

3. This Act shall be read and construed as one with the
following Acts, respectively:—

- (a) *The Manitoba Natural Resources Act*, chapter twenty-
nine of the statutes of 1930 (first session);
- (b) *The Alberta Natural Resources Acts*, chapter three of
the statutes of 1930 (first session) and chapter fifteen
of the statutes of 1931;
- (c) *The Saskatchewan Natural Resources Acts*, chapter forty-
one of the statutes of 1930 (first session) and chapter
fifty-one of the statutes of 1931.

SCHEDULE.

MEMORANDUM of Agreement made this 5th day of March
A.D. 1938

BETWEEN:

THE GOVERNMENT OF THE DOMINION OF CANADA, repre-
sented herein by the Honourable Thomas Alexander
Crerar, Minister of Mines and Resources,

Of the first part,

AND

THE GOVERNMENT OF THE PROVINCE OF MANITOBA, repre-
sented herein by the Honourable John Stewart
McDiarmid, Minister of Mines and Natural Resources,

Of the second part.

Whereas the Agreement entered into between the parties hereto on the 14th day of December, A.D. 1929 (hereinafter referred to as the Natural Resources Transfer Agreement) was duly approved by the Parliament of Canada and the Legislature of the Province, and upon an address to His Majesty from the Senate and House of Commons of Canada, was confirmed and declared to have the force of law by an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland entitled "*The British North America Act, 1930*," assented to on the 10th July, 1930, being chapter twenty-six of the Imperial Statutes, 20-21 George V:

And whereas by paragraph twenty-four of the said Natural Resources Transfer Agreement it was agreed that the provisions of the said Agreement might be varied by an Agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province:

And whereas the said Natural Resources Transfer Agreement came into force, pursuant to the provisions thereof, on the 15th day of July, 1930:

And whereas the said Natural Resources Transfer Agreement provided for the transfer to the Province of the interest of the Crown in all Crown lands, mines and minerals (precious and base) and royalties derived therefrom within the Province, and all sums due or payable for such lands, mines, minerals or royalties upon and subject to the terms and conditions therein set forth:

And whereas doubts have been entertained on the part of the Province whether the interest of the Crown in the waters and water-powers within the Province under the *Irrigation Act*, and the *Dominion Water Power Act* was transferred to and vested in the Province under the terms of the Natural Resources Transfer Agreement, the same not having been specifically mentioned in the description of the natural resources transferred to the Province as hereinbefore recited, and for the quieting of such doubts it is expedient that the transfer to the Province of the interest of the Crown in the waters and water-powers aforementioned should be confirmed:

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT:

1. Paragraph 1 of the said Natural Resources Transfer Agreement is amended by inserting after the word "province" in the sixth line thereof the words "and the interest of the Crown in the waters and water-powers within the Province under the *Irrigation Act*, being chapter sixty-one of the Revised Statutes of Canada, 1906, as amended by chapter thirty-eight, 7-8 Edw. VII, and chapter thirty-four, 9-10 Edw. VII, and under the *Dominion Water Power Act*"; and after the word "royalties" in the seventh line thereof the words "or for interests or rights in or to the use of such waters or water-powers"; and the amendments to said paragraph 1 hereinbefore provided shall have effect, and said paragraph 1 shall be read and construed as if it contained the said amendments, as from the coming into force of the said Natural Resources Transfer Agreement, subject nevertheless to the other provisions of the said Natural Resources Transfer Agreement and to the exception

of all such interests in or rights to the use of the waters and water-powers within the Province as continue, in virtue of such provisions, to belong to or to be administrable by the Crown in the right of Canada, and of all sums due or payable for such interests or rights.

2. This Agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Manitoba, and shall take effect on the first day of the calendar month beginning next after its approval as aforesaid, whichever approval, that of the Parliament of Canada or that of the Legislature of the Province, shall be later in date.

In witness whereof the Honourable Thomas Alexander Crerar, Minister of Mines and Resources, has hereunto set his hand on behalf of the Dominion of Canada; and the Honourable John Stewart McDiarmid, Minister of Mines and Natural Resources, has hereunto set his hand on behalf of the Province of Manitoba.

Signed on behalf of the Government of Canada by the Honourable Thomas Alexander Crerar, Minister of Mines and Resources,

(Sgd.) T. A. CRERAR.

in the presence of:

(Sgd.) W. C. BETHUNE.

Signed on behalf of the Government of Manitoba by the Honourable John Stewart McDiarmid, Minister of Mines and Natural Resources,

(Sgd.) J. S. McDIARMID.

in the presence of:

(Sgd.) MARY A. ZAKUS.

MEMORANDUM of Agreement made this 5th day of March, A.D. 1938.

BETWEEN

THE GOVERNMENT OF THE DOMINION OF CANADA, represented herein by the Honourable Thomas Alexander Crerar, Minister of Mines and Resources,

Of the first part:

AND

THE GOVERNMENT OF THE PROVINCE OF ALBERTA, represented herein by the Honourable David Bertrum Mullen, Minister of Agriculture and in charge of Water Resources, and the Honourable Nathan Eldon Tanner, Minister of Lands and Mines,

Of the second part:

Whereas the Agreement entered into between the parties hereto on the 14th day of December, A.D. 1929 (hereinafter referred to as the Natural Resources Transfer Agreement) was duly approved by the Parliament of Canada and the Legislature of the Province, and upon an address to His Majesty from the Senate and House of Commons of Canada, was confirmed and declared to have the force of law by an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland entitled "The British North America Act, 1930," being chapter twenty-six of the Imperial Statutes, 20-21 George V:

And whereas by paragraph 24 of the said Natural Resources Transfer Agreement it was agreed that the provisions of the said Agreement might be varied by an Agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province;

And whereas the said Natural Resources Transfer Agreement came into force, in virtue of a further Agreement between the parties hereto, dated the 29th day of July A.D. 1930, which was duly confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province, on the 1st day of October, A.D. 1930:

And whereas the said Natural Resources Transfer Agreement provided for the transfer to the Province of the interest of the Crown in all Crown lands, mines and minerals (precious and base) and the royalties derived therefrom within the Province, and all sums due or payable for such lands, mines, minerals and royalties upon and subject to the terms and conditions therein set forth;

And whereas doubts have been entertained on the part of the Province whether the interest of the Crown in the waters and water-powers within the Province under the *North-West Irrigation Act, 1898*, and the *Dominion Water Power Act*, was transferred to and vested in the Province under the terms of the Natural Resources Transfer Agreement, the same not having been specifically mentioned in the description of the natural resources transferred to the Province as hereinbefore recited, and for the quieting of such doubts, it is expedient that the transfer to the Province of the interest of the Crown in the waters and water-powers aforementioned should be confirmed;

And whereas by paragraph 2 of the said Natural Resources Transfer Agreement the Province agreed that it would carry out, in accordance with the terms thereof every contract to purchase or lease any Crown lands, mines or minerals and every other arrangement whereby any person had become entitled to any interest therein as against the Crown, and further agreed not to affect or alter any term of any such contract to purchase, lease or other arrangement by legislation or otherwise, except either with the consent of all the parties thereto, other than Canada, or in so far as any legislation may apply generally to all similar agreements relating to lands, mines or minerals in the Province or to interests therein, irrespective of who might be the parties thereto;

And whereas it has been agreed between Canada and the said Province that the terms of said paragraph 2 should be modified as herein set out:

Now therefore this Agreement witnesseth that:

1. Paragraph 1 of the said Natural Resources Transfer Agreement is amended by inserting after the word "province" in the sixth line thereof the words "and the interest of the Crown in the waters and water-powers within the Province under the *North-West Irrigation Act, 1898*, and the *Dominion Water Power Act*"; and after the word "royalties" in the seventh line thereof the words "or for interests or rights in or to the use of such waters or water-powers"; and the amendments to said paragraph 1 hereinbefore provided shall have effect, and said paragraph 1 shall be read and construed as if it contained the said amendments, as from the coming into force of the said Natural Resources Transfer Agreement, subject nevertheless to the other provisions of the said Natural Resources Transfer Agreement and to the exception of all such interests in or rights to the use of the waters and water powers within the Province as continue in virtue of such provisions, to belong to or to be administrable by the Crown in the right of Canada, and of all sums due or payable for such interests or rights.

2. Paragraph 2 of the said Natural Resources Transfer Agreement is amended by adding at the end thereof the following words:

"or is legislation relating to the conservation of oil resources or gas resources or both by the control or regulation of the production of oil or gas or both, whether by restriction or prohibition and whether generally or with respect to any specified area or any specified well or wells or by repressuring of any oil field, gas field or oil-gas field, and, incidentally thereto, providing for the compulsory purchase of any well or wells."

3. This Agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Alberta, and shall take effect on the first day of the calendar month beginning next after its approval as aforesaid, whichever approval, that of the Parliament of Canada or that of the Legislature of the Province, shall be later in date.

In witness whereof the Honourable Thomas Alexander Crerar, Minister of Mines and Resources, has hereunto set his hand on behalf of the Dominion of Canada; and the Honourable David Bertrum Mullen, Minister of Agriculture and in charge of Water Resources, and the Honourable Nathan Eldon Tanner, Minister of Lands and Mines, have hereunto set their hands on behalf of the Province of Alberta.

Signed on behalf of the Government of Canada by the Honourable Thomas Alexander Crerar, Minister of Mines and Resources,

(Sgd.) T. A. CRERAR.

in the presence of:
(Sgd.) W. C. BETHUNE.

Signed on behalf of the Government of Alberta by the Honourable David Bertrum Mullen, Minister of Agriculture and in charge of Water Resources, and the Honourable Nathan Eldon Tanner, Minister of Lands and Mines,

(Sgd.) D. B. MULLEN.

(Sgd.) N. E. TANNER.

in the presence of:

(Sgd.) ERNEST C. MANNING.

MEMORANDUM of Agreement made this 5th day of March A.D. 1938.

BETWEEN

THE GOVERNMENT OF THE DOMINION OF CANADA, represented by the Honourable Thomas Alexander Crerar, Minister of Mines and Resources,

Of the first part:

AND

THE GOVERNMENT OF THE PROVINCE OF SASKATCHEWAN, represented herein by the Honourable William Franklin Kerr, Minister of Natural Resources,

Of the second part:

Whereas the Agreement entered into between the parties hereto on the 20th day of March, A.D. 1930 (hereinafter referred to as the Natural Resources Transfer Agreement) was duly approved by the Parliament of Canada and the Legislature of the Province, and upon an address to His Majesty from the Senate and House of Commons of Canada, was confirmed and declared to have the force of law by an Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland entitled "The British North America Act, 1930," being chapter twenty-six of the Imperial Statutes, 20-21 George V;

And whereas by paragraph twenty-six of the said Natural Resources Transfer Agreement it was agreed that the provisions of the said Agreement might be varied by an Agreement confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province:

And whereas the said Natural Resources Transfer Agreement came into force, in virtue of a further Agreement between the parties hereto, dated the 7th day of August, A.D. 1930, which was duly confirmed by concurrent statutes of the Parliament of Canada and the Legislature of the Province, on the 1st day of October, A.D. 1930;

And whereas the said Natural Resources Transfer Agreement provided for the transfer to the Province of the interest of the Crown in all Crown lands, mines, minerals (precious and base), and royalties derived therefrom within the Province,

and all sums due or payable for such lands, mines, minerals or royalties upon and subject to the terms and conditions therein set forth;

And whereas doubts have been entertained on the part of the Province whether the interest of the Crown in the waters and water powers within the Province under the *North-west Irrigation Act, 1898*, and the *Dominion Water Power Act*, was transferred to and vested in the Province under the terms of the Natural Resources Transfer Agreement, the same not having been specifically mentioned in the description of the natural resources transferred to the Province as hereinbefore recited, and for the quieting of such doubts it is expedient that the transfer to the Province of the interest of the Crown in the waters and water powers aforementioned should be confirmed.

Now therefore this Agreement witnesseth that:

1. Clause 1 of the said Natural Resources Transfer Agreement is amended by inserting after the word "Province" in the sixth line thereof the words "and the interest of the Crown in the waters and water powers within the Province under the *North-west Irrigation Act, 1898*, and the *Dominion Water Power Act*"; and after the word "royalties" in the seventh line thereof the words "or for interests or rights in or to the use of such waters or water powers"; and the amendments to said clause 1 hereinbefore provided shall have effect, and said clause 1 shall be read and construed as if it contained the said amendments, as from the coming into force of the said Natural Resources Transfer Agreement, subject nevertheless to the other provisions of the said Natural Resources Transfer Agreement and to the exception of all such interests in or rights to the use of the waters and water powers within the Province as continue, in virtue of such provisions, to belong to or to be administrable by the Crown in the right of Canada, and of all sums due or payable for such interests or rights.

2. This Agreement is made subject to its being approved by the Parliament of Canada and by the Legislature of the Province of Saskatchewan, and shall take effect on the first day of the calendar month beginning next after its approval as aforesaid, whichever approval, that of the Parliament of Canada or that of the Legislature of the Province, shall be later in date.

In witness whereof the Honourable Thomas Alexander Crerar, Minister of Mines and Resources, has hereunto set his hand on behalf of the Dominion of Canada; and the Honourable William Franklin Kerr,
Minister of Natural Resources, has hereunto set his hand on behalf of the Province of Saskatchewan.

Signed on behalf of the Govern-
ment of Canada by the Honour-
able Thomas Alexander Crerar,
Minister of Mines and Resources, } (*Sgd.*) T. A. CRERAR.

in the presence of:

(*Sgd.*) W. C. BETHUNE. }

Signed on behalf of the Govern-
ment of Saskatchewan by the
Honourable William Franklin
Kerr, Minister of Natural Re-
sources, } (*Sgd.*) W. F. KERR.

in the presence of:

(*Sgd.*) GEO. SPENCE. }

MARRIAGE AND DIVORCE

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THE MARRIAGE AND DIVORCE ACT

R.S., 1927, CHAPTER 127.

An Act respecting Marriage and Divorce.⁽¹⁸¹⁾

SHORT TITLE.

1. This Act may be cited as the Marriage and Divorce Act. R.S., c. 105, s. 1; 1925, c. 41, s. 1. Short title.

MARRIAGE.

2. A marriage is not invalid merely because the woman is a sister of a deceased wife of the man, or a daughter of a sister of a deceased wife of the man. R.S., c. 105, s. 2.⁽¹⁸²⁾ Certain marriages not invalid.

3. A marriage is not invalid merely because the man is a brother of a deceased husband of the woman or is a son of such brother. 1923, c. 19, s. 1.⁽¹⁸³⁾ Certain marriages not invalid.

DIVORCE.

4. In any court having jurisdiction to grant divorce a *vinculo matrimonii* any wife may commence an action praying that her marriage may be dissolved on the ground that her husband has since the celebration thereof been guilty of adultery. 1925, c. 41, s. 2. Right of wife to divorce husband for adultery.

5. If the court is satisfied by the evidence that the case of the wife has been proved, and does not find that the wife has been in any manner accessory to or has connived at the adultery of her husband, or that she has condoned the adultery complained of, or that the action was commenced and is prosecuted in collusion with the husband or the woman with whom he is alleged to have committed adultery, then the court shall pronounce a decree declaring such marriage to be dissolved: Provided always that the court shall not be bound to pronounce such decree if it finds that the wife during the marriage has been guilty of adultery, or if the wife shall in the opinion of the court have been guilty of unreasonable delay in presenting or prosecuting such action or of cruelty towards the husband or of having deserted or wilfully separated herself from the husband before the adultery complained of, and without reasonable excuse, or of such wilful neglect or misconduct as has conduced to the adultery. 1925, c. 41, s. 3. Conditions upon which decree be pronounced.

6. Nothing contained in the last two preceding sections shall affect, restrict, or take away any right of any wife existing before the twenty-seventh day of June, one thousand nine hundred and twenty-five. 1925, c. 41, s. 4. Proviso.

⁽¹⁸¹⁾ By item 26 of section 91 of the B.N.A. Act, 1867, the legislative authority of the Parliament of Canada extends to "Marriage and Divorce." On the other hand, item 12 of section 92 of the same Act declares "The Solemnization of Marriage in the Province" to be a subject of exclusive provincial legislation.

⁽¹⁸²⁾ This section has been amended, see c. 10 of the statutes of 1932 on next page.

⁽¹⁸³⁾ This section has been amended, see c. 10 of the statutes of 1932 on next page.

AN ACT TO AMEND THE MARRIAGE AND DIVORCE ACT.

22-23 GEORGE V, CHAPTER 10 OF 1932.

An Act to amend the Marriage and Divorce Act.⁽¹⁸⁴⁾

[Assented to 4th April, 1932.]

R.S., c. 127.

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Marriage.

1. Sections two and three of the *Marriage and Divorce Act*, chapter one hundred and twenty-seven of the Revised Statutes of Canada, 1927, are repealed, and the following are substituted therefor:—

Certain
marriages
not invalid.

"2. A marriage is not invalid merely because the woman is a sister of a deceased wife of the man, or a daughter of a sister or brother of a deceased wife of the man.

Certain
marriages
not invalid.

"3. A marriage is not invalid merely because the man is a brother of a deceased husband of the woman or a son of a brother or sister of a deceased husband of the woman."

⁽¹⁸⁴⁾ Under the Act as it was up to the time of this amendment a man could legally marry either his deceased wife's sister or a daughter of his deceased wife's sister, but could not legally marry a daughter of his deceased wife's brother.

Similarly, a woman could legally marry either her deceased husband's brother or the son of her deceased husband's brother, but not a son of her deceased husband's sister.

THE DIVORCE ACT (ONTARIO), 1930.

20-21 GEORGE V, CHAPTER 14.

An Act to provide in the province of Ontario for the dissolution and the annulment of Marriage.⁽¹⁸⁵⁾

[Assented to 30th May, 1930.]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The law of England as to the dissolution of marriage and as to the annulment of marriage, as that law existed on the fifteenth day of July, 1870, in so far as it can be made to apply in the province of Ontario, and in so far as it has not been repealed, as to the province, by any Act of the Parliament of the United Kingdom or by any Act of the Parliament of Canada or by this Act, and as altered, varied, modified or affected, as to the province, by any such Act, shall be in force in the province of Ontario. Part of law of England, on 15th July, 1870, made law of Ontario.

2. The Supreme Court of Ontario shall have jurisdiction for all purposes of this Act. Jurisdiction.

3. This Act may be cited as "*The Divorce Act (Ontario)*, 1930." Short title.

(185) This Act gave Ontario the power to establish divorce courts.

THE DIVORCE JURISDICTION ACT, 1930.

20-21 GEORGE V, CHAPTER 15.

An Act respecting jurisdiction in Proceedings for Divorce.

(186)

[Assented to 30th May, 1930.]

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title.

1. This Act may be cited as *The Divorce Jurisdiction Act, 1930.*

Married woman deserted and living apart for two years may commence proceedings for divorce.

2. A married woman who either before or after the passing of this Act has been deserted by and has been living separate and apart from her husband for a period of two years and upwards and is still living separate and apart from her husband may, in any one of those provinces of Canada in which there is a court having jurisdiction to grant a divorce *a vinculo matrimonii*, commence in the court of such province having such jurisdiction proceedings for divorce *a vinculo matrimonii* praying that her marriage may be dissolved on any grounds that may entitle her to such divorce according to the law of such province, and such court shall have jurisdiction to grant such divorce provided that immediately prior to such desertion the husband of such married woman was domiciled in the province in which such proceedings are commenced.

Jurisdiction of court.

(186) The object of this Act is to give a married woman who has been deserted by her husband and has been living separate and apart from him for two years or more, the right to make an application for divorce to the court having jurisdiction in the province where immediately prior to such desertion the husband was domiciled.

THE BRITISH COLUMBIA DIVORCE APPEALS
ACT.

1 GEORGE VI, CHAPTER 4.

An Act to provide for Appeal to the Court of Appeal of the
Province of British Columbia in Divorce and Matri-
monial Causes.⁽¹⁸⁷⁾

[Assented to 31st March, 1937.]

HIS Majesty, by and with the advice and consent of the
Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as *The British Columbia Divorce* Short title.
Appeals Court.

2. The Court of Appeal of the province of British Columbia Appellate
shall have jurisdiction to hear and determine appeals from an jurisdiction
order, judgment or decree of a court of the province or a judge in divorce
thereof having jurisdiction in divorce and matrimonial causes. and
matrimonial
causes.

⁽¹⁸⁷⁾ Up to the time of the passing of this Act in all the provinces in which the
courts had jurisdiction in Divorce and Matrimonial Causes there was an appeal from
the trial judge to the Provincial Appellate Court except in the Province of British
Columbia. There the only appeal was to the Privy Council, as decided in the
case of *Claman vs. Claman* (1926) 35 B.C. Reports 137, affirmed by the Supreme
Court of Canada (1926) 68 S.C. Reports 4. This Act provided for an appeal to the
Court of Appeal for the Province of British Columbia.

PART V.
ACTS OF CANADA
RELATING TO
FEDERAL CONSTITUTIONAL MATTERS.

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SUCCESSION TO THE THRONE ACT.

1 GEORGE VI, CHAPTER 16.

An Act respecting alteration in the law touching the Succession to the Throne.⁽¹⁸⁸⁾

[Assented to 31st March, 1937.]

WHEREAS his former Majesty, King Edward VIII, by His Royal Message of the tenth day of December, in the year of Our Lord one thousand nine hundred and thirty-six, was pleased to declare that He was irrevocably determined to renounce the Throne for Himself and His descendants, and that He had for that purpose executed the Instrument of Abdication, which is set out in Schedule One to this Act, and signified his desire that effect thereto should be given immediately: Preamble.

And whereas, following upon communication to His Majesty's Government in Canada of his former Majesty's said declaration and desire, the request and consent of Canada, pursuant to the provisions of section four of the Statute of Westminster, 1931, to the enactment of His Majesty's Declaration of Abdication Act, 1936, which is set out in Schedule Two to this Act, was communicated to His Majesty's Government in the United Kingdom:

And whereas the following recital is set forth in the preamble to the Statute of Westminster, 1931:

"And whereas it is meet and proper to set out by way of preamble to this Act that, inasmuch as the Crown is the symbol of the free association of the members of the British Commonwealth of Nations, and as they are united by a common allegiance to the Crown, it would be in accord with the established constitutional position of all the members of the Commonwealth in relation to one another that any alteration in the law touching the Succession to the Throne or the Royal Style and Titles

Statute of
Westminster,
U.K.,
22 Geo. V,
ch. 4.

⁽¹⁸⁸⁾ It is provided in the preamble to the Statute of Westminster that any alteration in the law touching the Succession to the Throne shall require the assent of the Parliaments of all the Dominions.

On the 10th of December, 1936, King Edward the Eighth sent a message to the House of Commons of the United Kingdom to the effect that he had determined to renounce the throne. The message was accompanied by an instrument of abdication which had previously been executed and been witnessed by the King's three brothers. His Majesty's Declaration of Abdication Bill was brought in the same day and given a first reading in the House of Commons of the United Kingdom, whilst in Canada, as the House was not in session at that time, an order in council was passed expressing the request and consent of Canada to the bill in conformity with the spirit and provisions of the Statute of Westminster. In London the Act was passed and received assent the next day. In Canada the Succession to the Throne Bill was introduced on the 14th day of January, 1937, which was the first day of the session and received second and third readings in the House on the 19th of the same month. See note (99) to the Preamble of the Statute of Westminster.

shall hereafter require the assent as well of the Parliaments of all the Dominions as of the Parliament of the United Kingdom”;

and accordingly it becomes necessary to declare the Assent of the Parliament of Canada to the alteration in the law touching the Succession to the Throne set forth in His Majesty's Declaration of Abdication Act, 1936.

Now, therefore, His Majesty by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Assent to
alteration in
the law
touching the
Succession
to the
Throne.

1. The alteration in the law touching the Succession to the Throne set forth in the Act of the Parliament of the United Kingdom intituled “His Majesty's Declaration of Abdication Act, 1936” is hereby assented to.

SCHEDULE ONE.

INSTRUMENT OF ABDICATION.

I, Edward the Eighth, of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Emperor of India, do hereby declare My irrevocable determination to renounce the Throne for Myself and for My descendants, and My desire that effect should be given to this Instrument of Abdication immediately.

In token whereof I have hereunto set My hand this tenth day of December, nineteen hundred and thirty-six, in the presence of the witnesses whose signatures are subscribed.

EDWARD R.I.

Signed at Fort Belvedere
in the presence of
ALBERT.
HENRY.
GEORGE.

SCHEDULE TWO.

AN ACT OF THE PARLIAMENT OF THE UNITED KINGDOM
INTITULED:

An Act to give effect to His Majesty's declaration of abdication;
and for the purposes connected therewith.

A.D. 1936.

WHEREAS His Majesty by His Royal Message of the tenth day of December in this present year has been pleased to declare that He is irrevocably determined to renounce the Throne for Himself and His descendants, and has for that purpose executed the Instrument of Abdication set out in the Schedule to this Act, and has signified His desire that effect thereto should be given immediately;

And whereas, following upon the communication to His Dominions of His Majesty's said declaration and desire, the Dominion of Canada pursuant to the provisions of section four

of the Statute of Westminster, 1931, has requested and consented to the enactment of this Act, and the Commonwealth of Australia, the Dominion of New Zealand, and the Union of South Africa have assented thereto:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) Immediately upon the Royal Assent being signified to this Act the Instrument of Abdication executed by His present Majesty on the tenth day of December, nineteen hundred and thirty-six, set out in the Schedule to this Act, shall have effect, and thereupon His Majesty shall cease to be King and there shall be a demise of the Crown, and accordingly the member of the Royal Family then next in succession to the Throne shall succeed thereto and to all the rights, privileges, and dignities thereunto belonging.

Effect of
His Majesty's
declaration of
abdication.

(2) His Majesty, His issue, if any, and the descendants of that issue, shall not after His Majesty's abdication have any right, title or interest in or to the succession to the Throne, and section one of the Act of Settlement shall be construed accordingly.

(3) The Royal Marriages Act, 1772, shall not apply to His Majesty after His abdication nor to the issue, if any, of His Majesty or the descendants of that issue.

2. This Act may be cited as His Majesty's Declaration of Abdication Act, 1936. Short title.

SCHEDULE.

I, Edward the Eighth of Great Britain, Ireland, and the British Dominions beyond the seas, King, Emperor of India, do hereby declare My irrevocable determination to renounce the Throne for Myself and for My descendants, and My desire that effect should be given to this Instrument of Abdication immediately.

In token whereof I have hereunto set My hand this tenth day of December, nineteen hundred and thirty-six, in the presence of the witnesses whose signatures are subscribed.

EDWARD R. I.

Signed at Fort Belvedere
in the presence of
ALBERT.
HENRY.
GEORGE.

DEMISE OF THE CROWN ACT.

R.S., 1927, CHAPTER 46.

An Act respecting the Demise of the Crown.⁽¹⁸⁹⁾

SHORT TITLE.

Short title. **1.** This Act may be cited as the Demise of the Crown Act. R.S., c. 101, s. 1.

Govern-
ment com-
missions
not
affected by
demise of
the Crown.

Proclama-
tion.

Oaths of
allegiance
to be
taken.

2. Upon the demise of the Crown, it shall not be necessary to renew any commission by virtue whereof any officer of Canada, any functionary in Canada, or any judge of a Dominion or provincial court in Canada held his office or profession during the previous reign; but a proclamation shall be issued by the Governor General, authorizing all persons in office as officers of Canada who hold commissions under the late Sovereign, and all functionaries who exercised any profession by virtue of any such commission, and all judges of Dominion or provincial courts, to continue in the due exercise of their respective duties, functions and professions; and such proclamation shall suffice; and the incumbents shall, as soon thereafter as possible, take the usual and customary oath of allegiance, before the proper officer or officers thereunto appointed. R.S., c. 101, s. 2.

Contin-
uance in
office.

3. Upon such proclamation being issued, and oath taken, each and every such officer, functionary and judge shall continue in the lawful exercise of the duties and functions of his office or profession, as fully as if appointed *de novo* by commission derived from the Sovereign for the time being.

Validity
of acts
done.

2. All acts and things *bona fide* done and performed by such incumbents in their respective offices, and in the due and faithful performance of their duties, functions and professions, between the time of such demise and the proclamation so to be issued, if such oath of allegiance is duly taken, shall be deemed to be legally done, and valid accordingly. R.S., c. 101, s. 3.

Rights
and pre-
rogatives
of the
Crown
saved.

4. Nothing in this Act shall prejudice or in anywise affect the rights or prerogative of the Crown with respect to any office or appointment derived or held by authority from it, or prejudice or affect the rights or prerogatives thereof in any other respect whatsoever. R.S., c. 101, s. 4.

⁽¹⁸⁹⁾ Section two of the Senate and House of Commons Act, c. 147 of the R.S., 1927, states that "no Parliament of Canada shall determine or be dissolved by the demise of the Crown."

5. No writ, cause, action, suit, plea, judgment or process or any other proceeding whatsoever, whether civil or criminal, in or issuing out of any court, shall be determined, abated or discontinued by the demise of the Crown, but every such writ, cause, action, suit, plea, judgment, process or other proceeding shall remain in full force and virtue to be proceeded upon or with notwithstanding any demise of the Crown. R.S., c. 101, s. 5.

Judicial
proceed-
ings pre-
served.

GOVERNOR GENERAL'S ACT.

R.S., 1927, CHAPTER 85.

An Act respecting the Governor General.⁽¹⁹⁰⁾

SHORT TITLE.

Short title.

1. This Act may be cited as the Governor General's Act. R.S., c. 3, s. 1.

Governor General to be a corporation sole.

2. The Governor General of Canada for the time being or other the chief executive officer or administrator carrying on the Government of Canada, on behalf and in the name of the King, by whatsoever title he is designated, and his successors, shall be a corporation sole. R.S., c. 3, s. 2.

Bonds, etc., how to be taken.

3. All bonds, recognizances and other instruments by law required to be taken to the Governor General in his public capacity, shall be taken to him and his successors by his name of office, and may be sued for and recovered by him or his successors by his or their name of office as such.

Not to vest in personal representatives.

2. Such bonds, recognizances or other instruments shall however in no case go to or vest in the personal representatives of the Governor General, chief executive officer or administrator of the Government in whose name they were so taken. R.S., c. 3, s. 3.

Salary of Governor to be £10,000 sterling.

4. There shall be payable yearly, and pro rata for any period less than a year, to the Governor General of Canada for the time being, a salary of ten thousand pounds sterling, equal to and of the value of forty-eight thousand six hundred and sixty-six dollars and sixty-three cents.

Second charge on C.R. Fund.

2. Such salary shall be payable out of the Consolidated Revenue Fund of Canada, and shall form the second charge thereon. R.S., c. 3, s. 4.

⁽¹⁹⁰⁾ It is stated in the Report of the Imperial Conference, 1926 (p. 14) that the Governor-General of a Dominion is neither "the representative or agent of His Majesty's Government in Great Britain or of any department of that government." The Conference of 1930 took special care to define the position of the Governor as the King's personal representative. At the time of his appointment, the government of the Dominion selects its own candidate whom constitutionally the King must accept, which is according to the doctrine of ministerial responsibility. The result is that the Governor so chosen will exercise the executive power upon the advice of his responsible ministers, but naturally in the name of the King. The Government of Great Britain does not intervene in any way. The Prime Minister of the Dominion dictates the instructions.

See Part VI, Letters Patent constituting the Office of Governor General of Canada and notes thereto.

SENATE AND HOUSE OF COMMONS ACT.

R.S., 1927, CHAPTER 147.

An Act respecting the Senate and House of Commons.⁽¹⁹¹⁾

SHORT TITLE.

1. This Act may be cited as the Senate and House of Commons Act. R.S., c. 10, s. 1. Short title.

DEMISE OF THE CROWN.⁽¹⁹²⁾

2. No parliament of Canada shall determine or be dissolved by the demise of the Crown, but such parliament shall continue, and may meet, convene and sit, proceed and act, notwithstanding the demise of the Crown, in the same manner as if such demise had not happened. R.S., c. 10, s. 2. Not to dissolve Parliament.

3. Nothing in the next preceding section shall alter or abridge the power of the Crown to prorogue or dissolve the Parliament of Canada. R.S., c. 10, s. 3. Prerogative saved.

PRIVILEGES AND IMMUNITIES OF MEMBERS AND OFFICERS.⁽¹⁹³⁾

4. The Senate and the House of Commons respectively, and the members thereof respectively, shall hold, enjoy and exercise, Privileges, etc., of Senate and House of Commons defined.

(a) such and the like privileges, immunities and powers as at the time of the passing of the *British North America Act 1867*, were held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom, and by the members thereof, so far as the same are consistent with and not repugnant to the said Act; and

(b) such privileges, immunities and powers as are from time to time defined by Act of the Parliament of Canada, not exceeding those at the time of the passing of such Act held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom and by the members thereof respectively. R.S., c. 10, s. 4.

⁽¹⁹¹⁾ Under the heading "Legislative Power" it is enacted in the B.N.A. Act, 1867, by section 17 that "There shall be one Parliament for Canada, consisting of the Queen and Upper House styled the Senate, and the House of Commons," also by section 20 that there shall be a yearly session of the Parliament.

⁽¹⁹²⁾ See R.S., 1927, c. 46 *ante*, An Act respecting the Demise of the Crown.

⁽¹⁹³⁾ Section 18 of the B.N.A. Act, 1867, as enacted by s. 1 of The Parliament of Canada Act, 1875 (chapter 38) states that the privileges and immunities, etc., shall be such as are from time to time defined by Act of the Parliament of Canada

"The Supreme Court of Canada has held that any legislative body in Canada is competent, with the consent of the Crown, to pass laws defining its own powers and privileges but these must be subject to the rule that such powers and privileges do not exceed those possessed by the Imperial House of Commons at the time of passing of such laws." Bourinot's Parliamentary Procedure (4th edition), page 40.

Such privileges to be noted judicially.

5. Such privileges, immunities and powers shall be part of the general and public law of Canada, and it shall not be necessary to plead the same, but the same shall, in all courts in Canada, and by and before all judges, be taken notice of judicially. R.S., c. 10, s. 5.⁽¹⁹⁴⁾

Printed copy of journals to be evidence thereof.

6. Upon any inquiry touching the privileges, immunities and powers of the Senate and of the House of Commons or of any member thereof respectively, any copy of the journals of the Senate or House of Commons, printed or purported to be printed by the order of the Senate or House of Commons, shall be admitted as evidence of such journals by all courts, justices and others, without any proof being given that such copies were so printed. R.S., c. 10, s. 6.

REPORT AND PROCEEDINGS.

In suits, etc., on proof that the publication was made by authority of either House, judge shall stay proceedings.

7. Any person who is a defendant in any civil or criminal proceedings commenced and prosecuted in any manner for or on account of or in respect of the publication of any report, paper, votes or proceedings, by such person or by his servant by or under the authority of the Senate or House of Commons, may bring before the court in which such proceedings are so commenced and prosecuted, or before any judge of the same, first giving twenty-four hours' notice of his intention so to do to the prosecutor or plaintiff in such proceedings, or to his attorney or solicitor, a certificate under the hand of the Speaker or Clerk of the Senate or House of Commons, as the case may be, stating that the report, paper, votes or proceedings, as the case may be, in respect whereof such civil or criminal proceedings have been commenced and prosecuted, was or were published by such person or by his servant, by order or under the authority of the Senate or House of Commons, as the case may be, together with an affidavit verifying such certificate.

2. Such court or judge shall thereupon immediately stay such civil or criminal proceedings, and the same and every writ or process issued therein shall be and shall be deemed and taken to be finally put an end to, determined and superseded by virtue of this Act. R.S., c. 10, s. 7.

Stay of proceedings on proof of correctness of copy.

8. If any civil or criminal proceedings are commenced or prosecuted for or on account or in respect of the publication of any copy of such report, paper, votes or proceedings, the defendant, at any stage of the proceedings, may lay before the court or judge, such report, paper, votes or proceedings, and such copy with an affidavit verifying such report, paper, votes or proceedings, and the correctness of such copy.

2. The court or judge shall thereupon immediately stay such civil or criminal proceedings, and the same and every

⁽¹⁹⁴⁾ "It seems now to be clearly settled that the courts will not be deterred from upholding private rights by the fact that parliamentary privilege is involved in their maintenance and that, except as regards the internal regulation of its proceedings by the House, courts of law will not hesitate to enquire into alleged privilege, as they would into local custom, and determine its extent and application." Anson, *Law and Custom of the Constitution* 1, 182.

writ or process issued therein, shall be and shall be deemed to be finally put an end to, determined and superseded by virtue of this Act. R.S., c. 10, s. 8.

9. In any civil or criminal proceedings commenced or prosecuted for printing any extract from or abstract of any such report, paper, votes or proceedings, such report, paper, votes or proceedings may be given in evidence, and it may be shown that such extract and abstract was published *bona fide* and without malice, and, if such is the opinion of the jury, a verdict of not guilty shall be entered for the defendant. R.S., c. 10, s. 9.

What proof may be made on general issue in action for publishing extracts, etc. of reports, etc.

INDEPENDENCE OF PARLIAMENT.⁽¹⁹⁵⁾

Members of the House of Commons.

10. Except as hereinafter specially provided,

(a) no person accepting or holding any office, commission or employment, permanent or temporary, in the service of the Government of Canada, at the nomination of the Crown or at the nomination of any of the officers of the Government of Canada, to which any salary, fee, wages, allowance, emolument, or profit of any kind is attached; and

(b) no sheriff, registrar of deeds, clerk of the peace, or county crown attorney in any of the provinces of Canada,

No person holding any office of emolument under the Crown.

Nor any sheriff, etc., shall be a member.

shall be eligible as a member of the House of Commons, or shall sit or vote therein. R.S., c. 10, s. 10.

11. Nothing in the next preceding section shall render ineligible any person holding any office, commission or employment, permanent or temporary, in the service of the Government of Canada, at the nomination of the Crown, or at the nomination of any of the officers of the Government of Canada, as a member of the House of Commons, or shall disqualify him from sitting or voting therein, if, by his commission or other instrument of appointment, it is declared or provided that he shall hold such office, commission or employment without any salary, fees, wages, allowances, emolument or other profit of any kind, attached thereto. R.S., c. 10, s. 11.

Exception for employees without a salary.

12. Nothing shall render ineligible, as aforesaid, any person serving in the naval, military or air forces of Canada, or in any other of the naval, military or air forces of the Crown, while such forces are on active service in consequence of any war, and receiving salary, pay or allowance as a member of such forces while on such active service. 1915, c. 7, s. 1.⁽¹⁹⁶⁾

Persons on active service in military forces during war not ineligible as members.

Rep. & new 1940-41-42, c. 26.

⁽¹⁹⁵⁾ With respect to the Preservation of the Independence of Parliament, see "Parliamentary Procedure and Practise in the Dominion of Canada," by Sir John Bourinot (4th edition), pages 140 to 148.

⁽¹⁹⁶⁾ This is a new section enacted in 1940-41 to provide that persons serving in the Air Force (like persons serving in the naval and military forces) should not while on active service be ineligible as members of the House of Commons.

Seat of
Member not
vacated by
accepting
office of
profit.

13. Notwithstanding anything in this Act contained, a member of the House of Commons shall not vacate his seat by reason only of his acceptance of an office of profit under the Crown, if that office is an office the holder of which is capable of being elected to, or sitting or voting in, the House of Commons. 1931, c. 52, s. 1.

Members of
Privy
Council
also excepted.

14. Nothing in this Act contained shall render ineligible, as aforesaid, any person, member of the King's Privy Council, holding the recognized position of First Minister, President of the King's Privy Council for Canada, Minister of Finance, Minister of Justice, Minister of National Defence, Secretary of State, Minister of the Interior, Minister of Railways and Canals, Minister of Public Works, Postmaster General, Minister of Agriculture, Minister of National Revenue, Minister of Marine, Minister of Fisheries, Minister of Trade and Commerce, Minister of Labour, Secretary of State for External Affairs, Minister of Immigration and Colonization, Minister of Pensions and National Health or Solicitor General, or any office which is hereafter created, to be held by a member of the King's Privy Council for Canada and entitling him to be a Minister of the Crown, or shall disqualify any such person to sit or vote in the House of Commons, if he is elected while he hold such office, or is a member of the House of Commons at the date of his nomination by the Crown for such office, and is not otherwise disqualified. 1931, c. 52, s. 1. ⁽¹⁹⁷⁾

Sections
13 and 14
Rep. & new
1931, c. 52, s. 1.

No con-
tractor, etc.,
with the
Government
to be a
member.

15. No person, directly or indirectly, alone or with any other, by himself or by the interposition of any trustee or third party, holding or enjoying, undertaking or executing any contract or agreement, expressed or implied, with or for the Government of Canada on behalf of the Crown, or with or for any of the officers of the Government of Canada, for which any public money of Canada is to be paid, shall be eligible as a member of the House of Commons, or shall sit or vote in the said House. R.S., c. 10, s. 14.

Member
becoming
disqualified
to vacate
his seat.

16. If any member of the House of Commons accepts any office or commission, or is concerned or interested in any contract, agreement, service or work which, by this Act, renders a person incapable of being elected to, or of sitting or voting in the House of Commons, or knowingly sells any goods, wares or merchandise to, or performs any service for the Government of Canada, or for any of the officers of the Government of Canada, for which any public money of Canada is paid or to be paid, whether such contract, agreement or sale is expressed or implied, and whether the transaction is single or continuous, the seat of such member shall thereby be vacated, and his election shall thenceforth be null and void. R.S., c. 10, s. 15.

⁽¹⁹⁷⁾ Sections 13 and 14 were repealed and the above substituted therefor in 1931. The British Parliament had passed an Act for the same purpose in the Imperial Statutes, 16-17 George V, chapter 19, assented to 15th July, 1926. In New South Wales in 1906, the rule of non re-election was adopted, and it has always been in force in South Australia and New Zealand. It is now in force in Tasmania and Queensland. In the Cape, the Transvaal, the Orange River Colony and Natal it was never introduced, and the Union of South Africa, like the Commonwealth of Australia, follows the same model.

- 17.** If any person disqualified or by this Act declared incapable of being elected to, or of sitting or voting in the House of Commons, or if any person duly elected, who has become disqualified to continue to be a member or to sit or vote, under the last preceding section, nevertheless sits or votes, or continues to sit or vote therein, he shall thereby forfeit the sum of two hundred dollars for each and every day on which he so sits or votes. Penalty on person disqualified sitting and voting.
- 2.** Such sum shall be recoverable from him by any person who sues for the same in any court of competent civil jurisdiction in Canada. R.S., c. 10, s. 16. How recoverable.
- 18.** The three sections last preceding shall extend to any transaction or act begun and concluded during a recess of Parliament. R.S., c. 10, s. 17. As to acts done in recess.
- 19.** In every contract, agreement or commission to be made, entered into or accepted by any person with the Government of Canada, or any of the departments or officers of the Government of Canada, there shall be inserted an express condition, that no member of the House of Commons shall be admitted to any share or part of such contract, agreement or commission, or to any benefit to arise therefrom. Clause in all Government contracts.
- 2.** In case any person who has entered into or accepted, or who shall enter into or accept any such contract, agreement or commission, admits any member or members of the House of Commons, to any part or share thereof, or to receive any benefit thereby, every such person shall, for every such offence, forfeit and pay the sum of two thousand dollars, recoverable with costs in any court of competent jurisdiction by any person who sues for the same. R.S., c. 10, s. 18. Penalty for contravention.
- 20.** This Act shall not extend to disqualify any person as a member of the House of Commons by reason of his being Further exceptions.
- (a) a shareholder in any incorporated company having a contract or agreement with the Government of Canada, except any company which undertakes a contract for the building of any public work; or Shareholder of a company.
 - (b) a person on whom the completion of any contract or agreement, expressed or implied, devolves by descent or limitation, or by marriage, or as devisee, legatee, executor or administrator, until twelve months have elapsed after the same has so devolved on him; or Persons on whom contracts devolve, etc.
 - (c) a contractor for the loan of money or of securities for the payment of money to the Government of Canada under the authority of Parliament, after public competition, or respecting the purchase or payment of the public stock or debenture of Canada, on terms common to all persons; or Lenders of money to Government.
 - (d) an officer of the militia, or militiaman, not receiving any salary or emolument out of the public money of Canada, except his daily pay when called out for drill or active service, or annual or other allowances of any kind prescribed by the Militia Act, or fixed or prescribed by the Governor in Council under the provisions Militiamen.

Member not disqualified for being on service in naval or military forces during war.

- of the Militia Act, or sums paid for enrolment, and any pay or remuneration allowed him for the care of arms or for drill instruction; or
 (e) in the naval or military forces of Canada or in any other of the naval or military forces of the Crown while such forces are on active service in consequence of any war, and receiving salary, pay or allowance as a member of such forces while on such active service.
 R.S., c. 10, s. 19; 1915, c. 7, s. 2.

Members of the Senate.

Members of Senate not to become interested in public money.

21. No person, who is a member of the Senate, shall directly or indirectly, knowingly and wilfully be a party to or be concerned in any contract under which the public money of Canada is to be paid.

Penalty for contravention.

2. If any person, who is a member of the Senate, knowingly and wilfully becomes a party to or concerned in any such contract, he shall forfeit the sum of two hundred dollars for each and every day during which he continues to be such party or so concerned.

Recovery.

3. Such sum may be recovered from him by any person who sues for the same, in any court of competent jurisdiction in Canada.

Exception.

4. This section shall not render any senator liable for such penalties, by reason of his being a shareholder in any incorporated company, having a contract or agreement with the Government of Canada, except any company which undertakes a contract for the building of any public work.

Senators members of companies contracting.

Lenders of money to Government. Added

5. This section shall not render any senator liable for such penalties by reason of his being, or having been, a contractor for the loan of money or of securities for the payment of money to the Government of Canada under the authority of Parliament, after public competition, or by reason of his being, or having been, a contractor respecting the purchase or payment of the public stock or debentures of Canada, on terms common to all persons. R.S., c. 10, s. 20. 1933, c. 48, s. 1.⁽¹⁹⁸⁾.

1933, c. 48, s. 1.

Members of the Senate and of the House of Commons.

Member not to accept fee for services in any parliamentary proceeding.

22. No member of the Senate or of the House of Commons shall receive or agree to receive any compensation, directly or indirectly, for services rendered, or to be rendered, to any person, either by himself or another, in relation to any bill, proceeding, contract, claim, controversy, charge, accusation, arrest or other matter before the Senate or the House of Commons, or before a committee of either House, or in order to influence or to attempt to influence any member of either House.

⁽¹⁹⁸⁾ Subsection (5) of section 21 was added as an amendment in 1933. The purpose, as stated by Hon. Mr. Rhodes in the House of Commons on the 15th of May, 1933, was "to place members of the Senate, with respect to matters referred to, in precisely the same position as occupied by members of the House of Commons."

2. Every member of the Senate offending against this section shall be liable to a fine of not less than one thousand dollars and not more than four thousand dollars; and every member of the House of Commons offending against this section shall be liable to a fine of not less than five hundred dollars and not more than two thousand dollars, and shall for five years after conviction of such offence, be disqualified from being a member of the House of Commons, and from holding any office in the public service of Canada. Penalties.

3. Any person who gives, offers, or promises to any such member any compensation for any services as aforesaid, rendered or to be rendered, shall be guilty of an indictable offence, and liable to one year's imprisonment and to a fine of not less than five hundred dollars and not more than two thousand dollars. R.S., c. 10, s. 21. Offering fee to member. Penalty.

LIMITATION OF ACTIONS.

23. No person shall be liable to any forfeiture or penalty imposed by this Act, unless proceedings are taken for the recovery thereof within twelve months after such forfeiture or penalty has been incurred. R.S., c. 10, s. 22. Limitation of suits.

EXAMINATION OF WITNESSES.

24. The Senate or the House of Commons may administer an oath to any witness examined at the bar of the Senate or of the said House. R.S., c. 10, s. 23. Oath to witnesses at bar.

25. The Senate or the House of Commons may at any time order witnesses to be examined on oath before any committee. R.S., c. 10, s. 24. Ordinary examination under oath.

26. Any committee of the Senate or of the House of Commons may administer an oath to any witness examined before such committee. R.S., c. 10, s. 25. Administration of oath by committee.

27. Where any witness to be examined under this Act conscientiously objects to take an oath, he may make his solemn affirmation and declaration. R.S., c. 10, s. 26. Affirmation.

28. Any solemn affirmation and declaration so made shall be of the same force and effect, and shall entail the same consequences, as an oath taken in the usual form. R.S., c. 10, s. 27. Force and effect of affirmation.

29. Every such oath or affirmation shall be in the forms A and B respectively in the schedule to this Act. R.S., c. 10, s. 28. Form.

30. Any person examined as aforesaid who wilfully gives false evidence shall be liable to the penalties of perjury. R.S., c. 10, s. 29. Perjury.

Persons to
administer
oaths.

31. Any oath or affirmation under this Act may be administered by

- (a) the Speaker of the Senate or of the House of Commons;
- (b) the chairman of any committee of the Senate or House of Commons; or
- (c) such person or persons as may from time to time be appointed for that purpose, either by the Speaker of the Senate or by the Speaker of the House of Commons, or by any standing or other order of the Senate or House of Commons respectively. R.S., c. 10, s. 30.

SPEAKERS' SALARIES.

Salaries of
Speakers
and Deputy
Speaker.

32. The following salaries shall be payable, respectively:—

- (a) To the Speaker of the Senate, the sum of six thousand dollars per annum;
- (b) To the Speaker of the House of Commons, the sum of six thousand dollars per annum;
- (c) To the Deputy Speaker of the House of Commons, the sum of four thousand dollars per annum. 1920, c. 69, s. 3.

INDEMNITY.⁽¹⁹⁹⁾

Sessional
allowance.

33. For every session of Parliament which extends over a period of sixty-five days or more, there shall be payable to every member of the Senate and House of Commons attending at such session, a sessional allowance of four thousand dollars and no more. 1923, c. 68, s. 1.

Allowance
where
attendance
less than
three-
fourths of
days of
sitting of
House.

34. A member shall not be entitled to the said sessional allowance for less than fifty days' attendance; but the allowance for any less number of days shall be twenty-five dollars for each day's attendance. 1923, c. 68, s. 1.

How
indemnity
shall be
payable.

35. The said allowance may be paid on the last day of each month, to the extent of twenty dollars for each day's attendance, but the remainder shall be retained by the clerk or accountant of the proper House, until the close of the session, when the final payment shall be made. R.S., 1923, c. 68, s. 2.

Deductions
for non-
attendance.

36. A deduction at the rate of twenty-five dollars per day shall be made from such sessional allowance for every day beyond fifteen on which the member does not attend a sitting of the House of which he is a member, if the House sits on such day: Provided that in the case of a member elected or appointed after the commencement of a session, no day of a session previous to such election or appointment shall be reckoned as one of such fifteen days.

Proviso.

⁽¹⁹⁹⁾ As to the history and the evolution of the indemnity see Bourinot's *Parliamentary Procedure* (4th edition), p. 153.

2. Each day during the session on which there has been no sitting of such House in consequence of its having adjourned over such day, and each day on which the member is in the place where the session is held but is by reason of his illness unable to attend any such sitting as aforesaid, shall be reckoned as a day of attendance at such session for the purpose of the indemnity; and a member shall, in the case of his being unable to attend any such sitting by reason of his illness, be held to be in the place where the session is held whenever he is within ten miles of such place. 1923, c. 68, s. 3. Illness.

37. In the calculation of any deduction from any member's sessional allowance on account of absence, days which were spent by such member on duty with his corps in a regularly organized militia camp or in travelling between Ottawa and such camp shall not be computed. R.S., c. 10, s. 36. Regular militia camping days not computed.

38. In the calculation of any deduction from any member's sessional allowance on account of absence, days which were spent by such member in the naval or military forces of Canada or in any other of the naval or military forces of the Crown while such forces are on active service in consequence of any war, shall not be computed. 1915, c. 7, s. 3. No deduction from indemnity for absence on active service during war.

39. Whenever any person is a member of either House for fifty days or more during any session, extending over a period of sixty-five days or more, though such person may be a member for a part only of such session, he shall be entitled to his sessional allowance, subject to the deduction aforesaid for non-attendance as a member, and subject also to a deduction of twenty-five dollars for each day of such session before he was elected or appointed, or after he ceased to be a member, as the case may be. Allowance where person is Member for only part of a session.

2. If he is a member for less than fifty days, he shall be entitled only to twenty-five dollars for each day's attendance at such session, whatever may be the length thereof.

3. A member of either House for a part only of a session, who becomes during the session a member of the other House, shall not be entitled to more than four thousand dollars for the session. 1923, c. 68, s. 3.

40. In every session of Parliament covering a period of less than sixty-five days, there shall be payable to every member of the Senate and House of Commons attending at such session, twenty-five dollars for each day's attendance. 1923, c. 68, s. 3. Allowance when session less than 65 days.

41. The Senate or the House of Commons may respectively make regulations, from time to time, by rule or by order, rendering more stringent upon its own members the provisions of this Act which relate to attendance of members or to deductions to be made from the sessional allowance. 1923, c. 68, s. 3. Each House to make regulations.

42. To the member occupying the recognized position of Leader of the Opposition in the House of Commons, there shall be payable in addition to his sessional allowance an annual allowance of ten thousand dollars. 1920, c. 69, s. 5. Allowance to Leader of Opposition.

Travelling
expenses.

43. For each session of Parliament, there shall also be allowed to each member of the Senate and the House of Commons his actual moving or transportation expenses, and reasonable living expenses while on the journey between his place of residence and Ottawa, going and coming, once each way.

Outside of
Canada.

2. No such allowance shall be made for travelling outside of Canada, except from one point in Canada, to another by any direct route.

Commuta-
tion of
travelling
allowance.

3. Any member residing at a greater distance than four hundred miles from Ottawa may commute such allowance for travelling and living expenses, receiving in lieu thereof an allowance of fifteen dollars per day for each day necessarily occupied in the journey between his place of residence and Ottawa, going and coming, once each way, the day of departure and the day of arrival being counted each as a full day. R.S., c. 10, s. 40.

Statement
of attend-
ance.

44. For each session of Parliament, at the end of each month and at the end of the session, each member shall furnish the Clerk of the House of which he is a member with a statement, signed by him, of the number of day's attendance during the month or session, as the case may be, for which he is entitled to the said allowance, and, in case days are included on which the member has failed to attend by reason of illness, setting forth that fact and that his absence was due to such illness and was unavoidable.

Statement
in connection
with travel-
ling allow-
ance.

2. Every member applying for an allowance for travelling and living expenses shall furnish the Clerk of the House of which he is a member with a statement, signed by him, of his actual moving or transportation expenses, and of his living expenses, as provided for in the last preceding section, and, if the member has elected to commute such allowance under the last preceding section, a statement of the time necessarily occupied in his journeys to and from Ottawa, as provided by that section.

Statements
certified and
sworn to
before
payment.

3. Upon the said statements being certified by the Clerk, or the Assistant Clerk, and sworn to by the member before the accountant or assistant accountant of the House or any person authorized to take affidavits, the Clerk of the Senate or the accountant of the House of Commons, shall pay to the member the allowance to which he is entitled. R.S., c. 10, s. 41; 1920, c. 69, s. 6.

Sums
granted to
His Majesty
for purposes
of this Act.

45. There is hereby granted to His Majesty, out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada, an annual sum sufficient to enable His Majesty to pay the amount of the sessional allowances hereinbefore mentioned. R.S., c. 10, s. 42.

How
expended as
to House of
Commons.

46. All moneys expended under this Act, in respect of the House of Commons, shall be expended and accounted for in the same manner as moneys for defraying the contingent expenses of the House of Commons are to be expended and accounted for under the House of Commons Act R.S., c. 10, s. 43.

47. Credits for all sums voted by Parliament and payable in respect of allowances to members of the Senate as hereinbefore provided, and in respect of other expenditure for the service of the Senate, shall issue from time to time. And as to Senate.

2. Such credits shall issue on one of the banks of Canada in favour of the Clerk of the Senate and the assistant accountant of the Senate, or such other persons as the Speaker of the Senate from time to time designates for the purpose. Credits on banks of Canada.

3. Such Clerk shall, from time to time, apply for such credits as he deems necessary by an order signed by him. R.S., c. 10, s. 44. Clerk to apply therefor.

SCHEDULE

FORM A.

The evidence you shall give on this examination shall be the truth, the whole truth and nothing but the truth. So help you God.

FORM B.

I, A. B., do solemnly, sincerely and truly affirm and declare the taking of any oath is according to my religious belief unlawful, and I do also solemnly, sincerely and truly affirm and declare, etc.

R.S., c. 10, Sch.

THE SPEAKER OF THE SENATE ACT.⁽²⁰⁰⁾

57-58 VICTORIA, CHAPTER 11.

(NOTE: This Act, with a short title added and clause four below deleted, is now chapter 149 of the Revised Statutes of Canada, 1927.)

An Act respecting the Speaker of the Senate.

[Assented to 23rd July, 1894.]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Provision for the Speaker's illness and leaving the chair.

1. Whenever the Speaker of the Senate, from illness or other cause, finds it necessary to leave the chair during any part of the sittings of the Senate on any day, he may call upon any senator to take the chair and preside as Speaker during the remainder of such day, unless the Speaker himself resumes the chair before the close of the sittings for that day.

Provision for unavoidable absence of the Speaker.

2. Whenever the Senate is informed by the Clerk at the table of the unavoidable absence of the Speaker, the Senate may choose any senator to preside as the Speaker during such absence, and such senator shall thereupon have and execute all the powers, privileges and duties of Speaker, until the Speaker himself resumes the chair, or another Speaker is appointed by the Governor General.

Validity of acts done in such cases.

3. Every act done by any senator, acting as aforesaid, shall have the same effect and validity as if the act had been done by the Speaker himself.

As to coming into force of Act.

4. This Act shall not come into force until Her Majesty's pleasure thereon has been signified by proclamation in the *Canada Gazette*.⁽²⁰¹⁾

⁽²⁰⁰⁾ By virtue of the British North America Act, 1867, only the provinces (*see* section 92) have the right to amend their own constitution. As will be noticed, on reading section 91, the federal parliament has not been granted the same power. Doubts having arisen as to the power of Parliament to pass the above mentioned Act the latter was confirmed by imperial statute assented to on the fifth of September, 1895. *See* Part II of this volume for the Imperial Act.

⁽²⁰¹⁾ The proclamation was dated September 28, 1895.

THE SPEAKER OF THE HOUSE OF COMMONS ACT.⁽²⁰²⁾

R.S., 1927, CHAPTER 148.

An Act respecting the Speaker of the House of Commons.

SHORT TITLE.

1. This Act may be cited as the Speaker of the House of Commons Act. R.S., c. 13, s. 1. Short title.

2. Whenever the Speaker of the House of Commons, from illness or other cause, finds it necessary to leave the chair during any part of the sittings of the said House, on any day, he may call upon the Chairman of Committees, or, in his absence, upon any member of the House, to take the chair and to act as deputy speaker during the remainder of such day, unless he himself resumes the chair before the close of the sittings for that day. R.S., c. 13, s. 2. Speaker leaving the chair, who to preside.

3. Whenever the House is informed by the Clerk at the table of the unavoidable absence of the Speaker, the Chairman of Committees, if present, shall take the chair and shall perform the duties and exercise the authority of speaker in relation to all the proceedings of the House, until the meeting of the House on the next sitting day, and so on from day to day on the like information being given to the House until the House otherwise orders: Provided that if the House adjourns for more than twenty-four hours, the deputy speaker shall continue to perform the duties and exercise the authority of speaker for twenty-four hours only after such adjournment. R.S., c. 13, s. 3. In unavoidable absence of speaker, chairman of committees to act.

Proviso.

4. If, at any time during a session of Parliament the Speaker is temporarily absent from the House, and a deputy speaker thereupon performs the duties and exercises the authority of speaker, as hereinbefore provided, or pursuant to the standing orders or other order, or a resolution of the House, every act done and proceeding taken in or by the House, in the exercise of its powers and authority, shall be as valid and effectual as if the Speaker himself was in the chair. R.S., c. 13, s. 4. Validity of any act done while deputy speaker in chair.

5. Every act done, and warrant, order or other document issued, signed or published by such deputy speaker in relation to any proceedings of the House of Commons, or which under any statute would be done, issued, signed or published by the Speaker if then able to act, shall have the same effect and validity as if the same had been done, issued, signed or published by the Speaker for the time being. R.S., c. 13, s. 5. Idem.

⁽²⁰²⁾ This Act was originally chapter one of the statutes of 1885. Section four of that Act had repealed chapter two of the statutes of 1868 intituled "*An Act respecting the office of Speaker of the House of Commons of the Dominion of Canada.*"

HOUSE OF COMMONS ACT.

R.S., 1927, CHAPTER 145.

An Act respecting the House of Commons.⁽²⁰³⁾

SHORT TITLE.

Short title.

1. This Act may be cited as the House of Commons Act. R.S., c. 11, s. 1.

DISQUALIFICATIONS OF MEMBERS.

Member of
legislatures
not eligible.

2. No person who, on the day of the nomination at any election to the House of Commons, is a member of any legislative council or of any legislative assembly of any province now included, or which shall be hereafter included, within the Dominion of Canada, shall be eligible as a member of the House of Commons, or shall be capable of being nominated or voted for at such election, or of being elected to or of sitting or voting in the House of Commons.

Election to
be void.

2. If any one so declared ineligible is elected and returned as a member of the House of Commons, his election shall be null and void. R.S., c. 11, s. 2.

Member
accepting
seat in
provincial
legislature
to vacate
his seat.

3. If any member of the House of Commons is elected and returned to any legislative assembly, or is elected or appointed a member of any legislative council and accepts the seat, his election as a member of the House of Commons shall thereupon become null and void, his seat shall be vacated, and a new writ shall issue forthwith for a new election.

If elected or
appointed
without his
knowledge.

4. Any member of the House of Commons elected or appointed to a provincial legislature without his knowledge or consent shall continue to hold his seat in the House of Commons as if no such election or appointment to a provincial legislature had been made, if, without taking his seat in the provincial legislature, and within ten days after being notified of such election or appointment, or, if he is not within the province at the time, then within ten days after his arrival within the province, he resigns his seat in such legislature, and notifies the Speaker of the House of Commons of such resignation. R.S., c. 11, s. 3.

⁽²⁰³⁾ The House of Commons is elected for five years unless sooner dissolved by the Governor General. See *The Dominions Elections Act, 1938* (c. 46) as to the qualifications and disqualifications of electors, qualifications of candidates, persons ineligible as candidates and procedure at dominion elections.

The number of members is regulated by section 51 of the B.N.A. Act, 1867, (see comments under that section.) *The Representation Act, 1947*, which governs at present is based on the census of 1941, see *The British North America Act, 1943*, which states that "it shall not be necessary that the representation . . . be readjusted in consequence of the completion of the decennial census taken in the year 1941" until after the war and also *The British North America Act, 1946* which repealed and re-enacted section 51 making new provision as to the readjustment of representation in the House of Commons.

5. If any person who is by this Act declared ineligible as a member of the House of Commons, or incapable of sitting or voting therein, so sits or votes, he shall forfeit the sum of two thousand dollars for every day he sits or votes.

Penalty for person ineligible sitting or voting.

2. Such sum may be recovered by any person who sues for the same, by action in any form allowed by law in the province in which the action is brought, in any court having jurisdiction. R.S., c. 11, s. 4.

Recovery.

RESIGNATION OF MEMBERS.⁽²⁰⁴⁾

6. Any member of the House of Commons may resign his seat

Member may resign his seat by:

(a) by giving, in his place in the House, notice of his intention to resign, in which case, and immediately after such notice has been entered by the clerk on the journals of the House, the Speaker shall forthwith address his warrant, under his hand and seal, to the Chief Electoral Officer, for the issue of a writ for the election of a new member in the place of the member resigning; or

Notice;

(b) by addressing and causing to be delivered to the Speaker a declaration of his intention to resign his seat, made in writing under his hand and seal before two witnesses, which declaration may be so made and delivered either during a session of Parliament, or in the interval between two sessions, in which case the Speaker shall, upon receiving such declaration, forthwith address his warrant, under his hand and seal, to the Chief Electoral Officer, for the issue of a writ for the election of a new member in place of the member so resigning;

Declaration.

and in either case a writ shall issue accordingly.

Writ.

2. An entry of the declaration so delivered to the Speaker shall be therefore made in the journals of the House. R.S., c. 11, s. 5; 1920, c. 46, s. 18.

Entry in journals.

7. If any member of the House of Commons wishes to resign his seat in the interval between two sessions of Parliament, and there is then no Speaker, or, if the Speaker is absent from Canada, or, if such member is himself the Speaker, he may address or cause to be delivered to any two members of the House the declaration before mentioned of his intention to resign.

Proceedings where a member wishes to resign and there is no Speaker, or he himself is Speaker.

2. Such two members, upon receiving such declaration, shall forthwith address their warrant, under their hands and seals, to the Chief Electoral Officer for the issue of a new writ for the election of a member in the place of the member so notifying his intention to resign, and such writ shall issue accordingly. R.S., c. 11, s. 6; 1920, c. 46, s. 18.

Warrant for election writ.

⁽²⁰⁴⁾ See Bourinot's Parliamentary Procedure (4th edition), at pp. 157-161 as to resignations of members and vacancies.

Seat vacant.

8. Any member tendering his resignation in any manner hereinbefore provided, shall be held to have vacated his seat and shall cease to be a member of the House. R.S., c. 11, s. 7.

Not to resign
when elec-
tion is
contested.

9. No member shall tender his resignation while his election is lawfully contested, or until after the expiration of the time during which it may by law be contested on other grounds than corruption or bribery. R.S., c. 11, s. 8.

VACANCIES.

Vacancy by
death or
acceptance
of office.

10. If any vacancy happens in the House of Commons by the death of any member, or by his accepting any office, the Speaker, on being informed of such vacancy by any member of the House in his place, or by notice in writing under the hands and seals of any two members of the House, shall forthwith address his warrant to the Chief Electoral Officer, for the issue of a new writ for the election of a member to fill the vacancy; and a new writ shall issue accordingly. R.S., c. 11, s. 9; 1920, c. 46, s. 18.

If there is
no Speaker,
or he is
absent or
member is
himself the
Speaker.

11. If, when such vacancy happens, or at any time thereafter, before the Speaker's warrant for a new writ has issued, there is no Speaker of the House, or if the Speaker is absent from Canada, or if the member whose seat is vacated is himself the Speaker, then, any two members of the House may address their warrant, under their hands and seals, to the Chief Electoral Officer, for the issue of a new writ for the election of a member to fill such vacancy; and such writ shall issue accordingly. R.S., c. 11, s. 10; 1920, c. 46, s. 18.

Vacancy
occurring
before
Parliament
meets after
a general
election.

12. A warrant may issue to the Chief Electoral Officer for the issue of a new writ for the election of a member of the House of Commons to fill any vacancy arising subsequently to a general election, and before the first meeting of Parliament thereafter, by reason of the death or acceptance of such office of any member.

When writ
may issue.

2. Such writ may issue at any time after such death or acceptance of office.

Effect of
election.

3. The election to be held under such writ, shall not in any manner affect the rights of any person entitled to contest the previous election.

Report of
trial judge
or Supreme
Court.

4. The report of any judge appointed to try such previous election, or of the Supreme Court of Canada, in case of an appeal, shall determine whether the member who has so died or accepted office, or any other person was duly returned or elected thereat.

Effect of
determina-
tion.

5. The determination, if adverse to the return of such member, and in favour of any other candidate, shall avoid the election held under this section, and the candidate declared duly elected at the previous election shall be entitled to take his seat as if no such subsequent election had been held. R.S., c. 11, s. 11; 1920, c. 46, s. 18.

13. In the event of a vacancy occurring a writ shall be issued within six months after the receipt by the Chief Electoral Officer of the warrant for the issue of a new writ for the election of a member of the House of Commons. Election writ to issue within six months after warrant.

2. This election shall not apply where the vacancy in respect of which the warrant has issued occurs within six months of the expiry of the time limited for the duration of the House of Commons. Exceptions.

3. If Parliament is dissolved after the issue of a new writ hereunder such writ shall thereupon be deemed to have been superseded and withdrawn. 1919 (2nd session), c. 18, s. 1. Dissolution.

14. No person shall be nominated and consent to be nominated so as to be a candidate for election as a member of the House of Commons for more than one electoral district at the same time, and if any person is so nominated for more than one electoral district and consents thereto all such nominations shall be null and void. 1919 (2nd session), c. 18, s. 1. Nomination for one electoral district only.

INTERNAL ECONOMY.⁽²⁰⁵⁾

15. The person who fills the office of Speaker at the time of any dissolution of Parliament, shall, for the purpose of the following provisions of this Act, be deemed to be the Speaker until a Speaker is chosen by the new Parliament. R.S., c. 11, s. 12.⁽²⁰⁶⁾ In case of dissolution, Speaker to act until another is chosen.

16. The Governor in Council shall appoint four members of the King's Privy Council, for Canada, who are also members of the House of Commons, who, with the Speaker of the House of Commons, shall be commissioners for the purposes of this and the four next following sections. Speaker and four other commissioners to act.

2. The names and offices of such commissioners shall be communicated by message from the Governor in Council to the House of Commons, in the first week of each session of Parliament. How appointed.

3. Three of the commissioners, whereof the Speaker of the House of Commons shall be one, may carry the said provisions into execution. Quorum.

4. In the event of the death, disability, or absence from Canada of the Speaker during any dissolution or prorogation of Parliament, any three of the commissioners may carry the said provisions into execution. R.S., c. 11, s. 13. Case of death or absence of Speaker.

17. An estimate shall annually be prepared by the Clerk of the House of Commons of the sums which will probably be required to be provided by Parliament for the payment of the indemnity and the actual moving or transportation expenses of members, and of salaries, allowances and contingent expenses of the House, and of the several officers and clerks thereof under his direction, during the fiscal year. Estimate to be made by the Clerk.

⁽²⁰⁵⁾ See Bourinot's Parliamentary Procedure (4th edition), pp. 197-198.

⁽²⁰⁶⁾ See the Speaker of the House of Commons Act, c. 148 of the Revised Statutes of Canada, 1927.

And by the
Serjeant-at-
Arms.

2. The Serjeant-at-Arms of the House of Commons shall annually prepare an estimate of the sums which will probably be required to be provided by Parliament for the payment of salaries or allowances of the messengers, doorkeepers and servants of the House under his direction, and of the contingent expenses under his direction, during such year.

To be sub-
mitted to
Speaker.

3. Such estimates shall be submitted to the Speaker for his approval, and shall be subject to such approval and to such alterations as the Speaker considers proper.

Speaker to
prepare an
estimate.

4. The Speaker shall thereupon prepare an estimate of the sums requisite for the several purposes aforesaid, and shall sign the same.

Estimates to
be submitted
to Minister
of Finance.

5. Such several estimates of the Clerk, Serjeant-at-Arms and Speaker shall be transmitted by the Speaker to the Minister of Finance for his approval, and shall be laid severally before the House of Commons with the other estimates for the year. R.S., c. 11, s. 14.

Money pay-
able for
member's
indemnity
subject to
order of
commis-
sioners.

18. All sums of money voted by Parliament upon such estimates or payable to members of the House of Commons under the Senate and House of Commons Act, shall be subject to the order of the commissioners, or any three of them, of whom the Speaker shall be one. R.S., c. 11, s. 15.

Credits to
issue.

19. Credits for all the sums mentioned in the next preceding section shall issue from time to time according to the directions of the commissioners.

Credits in
his favour.

2. The credits shall issue on one of the banks of Canada in favour of the Accountant and his assistant, or of such two officers as the commissioners from time to time designate.

Advances of
money to
accountant.

3. The commissioners shall from time to time apply for such credits as they deem necessary for that purpose in favour of the said Accountant and his assistant, or of the other officers designated by them, by an order signed by the Speaker and two others of the commissioners. R.S., c. 11, s. 16; 1918, c. 12, s. 34.

Officers to
give
security.

20. The officers in whose favour the credit is given shall give such security and in such form for the faithful performance of their respective duties as the commissioners require. R.S., c. 11, s. 17.

OFFICERS.⁽²⁰⁷⁾

Inquiry.

21. If any complaint or representation is at any time made to the Speaker for the time being of the misconduct or unfitness of any clerk, officer, messenger or other person attendant on the House of Commons, the Speaker may cause an inquiry to be made into the conduct or fitness of such person.

Suspension
and
removal.

2. If thereupon it appears to the Speaker that such person has been guilty of misconduct, or is unfit to hold his situation,

⁽²⁰⁷⁾ See Standing Orders 82 to 91, of the House of Commons respecting the Officers of the House and their duties.

the Speaker may, if such clerk, officer, messenger or other person has been appointed by the Crown, suspend him and report such suspension to the Governor General, and, if he has not been appointed by the Crown, suspend or remove him. R.S., c. 11, s. 18.

22. The Clerk of the House of Commons shall subscribe and take before the Speaker the oath of allegiance, and all other officers, clerks and messengers of the House of Commons shall subscribe and take before the Clerk of the House of Commons the oath of allegiance. **Oath of allegiance.**

2. The Clerk of the House of Commons shall keep a register of all such oaths. R.S., c. 11, s. 19. **Registry.**

THE OATHS OF ALLEGIANCE ACT.

R.S., 1927, CHAPTER 143.

(as amended)

An Act respecting Oaths of Allegiance.⁽²⁰⁸⁾

SHORT TITLE.

Short
title.

1. This Act may be cited as the Oaths of Allegiance Act.
R.S., c. 78, s. 1.

Oath of
allegiance.

Rep. & New
1934, c. 21, s. 1.

2. (1) Every person in Canada, who, either of his own accord, or in compliance with any lawful requirement made of him, or in obedience to the directions of any Act or law in force in Canada, save and except the *British North America Act, 1867*, and the *Naturalization Act*, desires to take an oath of allegiance, shall have administered to him and take the oath in the following form, and no other:—

Form of
oath.

“I, A.B., do swear that I will be faithful and bear true allegiance to His Majesty King George the Fifth, his heirs and successors according to law. So help me God.”

Substitution
of Sovereign
for the time
being.

(2) Where in the said oath of allegiance the name of His present Majesty is expressed, the name of the King or Queen of Great Britain, Ireland and the British dominions beyond the seas, for the time being, shall be substituted from time to time.

Regulations
respecting
oath of
allegiance.

(3) The Governor in Council may make regulations, which shall have the force of law, requiring any person appointed to or holding an office which is under the legislative authority of the Parliament of Canada to take said oath of allegiance notwithstanding that the taking of said oath is not made necessary by any existing law in force in Canada.

Regulations
respecting
oaths of
office.

(4) The Governor in Council may make regulations which shall have the force of law, requiring any person appointed to or holding an office which is under the legislative authority of the Parliament of Canada to take an oath in the form prescribed by such regulations for the faithful performance of the duties

⁽²⁰⁸⁾ This Act was amended in 1934 by repealing section two thereof and enacting the above section two.

of such office, in any case in which the form of such oath is not prescribed by an existing law in force in Canada. 1934, c. 21, s. 1.⁽²⁰⁹⁾

3. It shall not be necessary for any person appointed to any civil office in Canada, or for any mayor or other officer or member of any corporation therein, or for any person admitted, called or received as a barrister, advocate, notary public, attorney, solicitor or proctor, to make any declaration or subscription, or to take or subscribe any other oath than the oath aforesaid, and also such oath for the faithful performance of the duties of his office, or for the due exercise of his profession or calling as is required by any law in that behalf. R.S., c. 78, s. 3.

No other oath necessary.

4. The oath of allegiance hereinbefore set forth, together with the oath of office or oath for the due exercise of any profession or calling, shall be taken within the period and in the manner, and subject to the disabilities and penalties for the omission thereof, by law provided with respect to such oaths, in all such cases respectively. R.S., c. 78, s. 4.

Within what delay shall oath be taken.

5. All persons allowed by law in civil cases, in any part of Canada, to affirm instead of making oath, shall be permitted to take an affirmation of allegiance in the like terms, *mutatis mutandis*, as the said oath of allegiance.

An allegiance affirmation may be substituted for an oath.

2. Such affirmation of allegiance, taken before the proper officer, shall in all cases be accepted from such persons in lieu of such oath, and shall as to such affirmants have the like effect as the said oath of allegiance. R.S., c. 78, s. 5.

6. All justices of the peace and other officers lawfully authorized either by virtue of their office, or special commission from the Crown for that purpose, may in any part of Canada administer the oath of allegiance or receive the affirmation of allegiance. R.S., c. 78, s. 6.

By whom administered.

⁽²⁰⁹⁾ Under the authority of the Royal and Parliamentary Titles Act, 1927 (Imp.) (17 Geo. V, c. 4), a Royal Proclamation was issued on May 13, 1927, changing the title of His Majesty to read as follows:—

“George V, by the Grace of God of Great Britain, Ireland and the British dominions beyond the Seas, King, Defender of the Faith, Emperor of India.”

In consequence thereof the *Oaths of Allegiance Act* (Can.) was amended to adopt the simple form of oath of allegiance that had been adopted in the United Kingdom, Australia, South Africa and other portions of the Empire, and which is set forth in the new section two.

The special form of oath of allegiance, which is prescribed by section 128 of the *British North America Act, 1867*, for members of the Senate and House of Commons and for members of the Legislative Councils and Legislative Assemblies, reads as follows:—

“I, A. B., do swear that I will be faithful and bear true allegiance to His Majesty King George the Sixth.”

Section 12 of *The Canadian Citizenship Act*, ch. 15 of the statutes of 1946, prescribes that a slightly different form of oath of allegiance shall be administered under that Act, reading as follows:—

“I, A. B., swear that I will be faithful and bear true allegiance to His Majesty King George the Sixth, His Heirs and Successors, according to law and that I will faithfully observe the laws of Canada and fulfil my duties as a Canadian Citizen. So help me God.”

As a similar form is prescribed by the British Nationality and Status of Aliens Act, 1914, of the United Kingdom, which has been re-enacted by the Parliament of Canada, it is deemed advisable to retain the same form in the naturalization of aliens in Canada.

The British North America Act, 1867, and *The Canadian Citizenship Act* are, therefore, excepted from the operation of the amending Act.

See the following Act in this volume by which the assent of the Parliament of Canada is given to the omission from the Royal Style and Titles of the words “Emperor of India”.

THE ROYAL STYLE AND TITLES ACT (CANADA), 1947.

11 GEORGE VI, CHAPTER 72.

An Act to provide for the Alteration of His Majesty's Royal Style and Titles.

[Assented to 17th July, 1947.]

Preamble.	WHEREAS the following recital is set forth in the preamble to the Statute of Westminster, 1931:—
Recital.	<p>“And whereas it is meet and proper to set out by way of preamble to this Act that, inasmuch as the Crown is the symbol of the free association of the members of the British Commonwealth of Nations, and as they are united by a common allegiance to the Crown, it would be in accord with the established constitutional position of all the members of the Commonwealth in relation to one another that any alteration in the law touching the Succession to the Throne or the Royal Style and Titles shall hereafter require the assent as well of the Parliaments of all the Dominions as of the Parliament of the United Kingdom”;</p> <p>And whereas it is proposed that the words “Indiae Imperator” and “Emperor of India” be omitted from the present Royal Style and Titles.</p> <p>Therefore, His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—</p>
Short title.	1. This Act may be cited as <i>The Royal Style and Titles Act (Canada)</i> , 1947.
Parliamentary assent.	2. The assent of the Parliament of Canada is hereby given to the omission from the Royal Style and Titles of the words “Indiae Imperator” and the words “Emperor of India”.
Effective date.	3. The date on which the said omission becomes effective shall be published in the <i>Canada Gazette</i> . ⁽²¹⁰⁾

⁽²¹⁰⁾ On the 22nd day of June, 1948, appeared the following “Extra” of the *Canada Gazette* under the heading “Government Notice.”

“DEPARTMENT OF EXTERNAL AFFAIRS

Notice is hereby given pursuant to The Royal Style and Titles Act (Canada), 1947, that effective the 22nd day of June, 1948, the words “Indiae Imperator” and “Emperor of India” shall be omitted from the Royal Style and Titles.”

THE EXTRA-TERRITORIAL ACT, 1933.

23-24 GEORGE V, CHAPTER 39.

An Act respecting Extra-territorial Operation of Acts of the Parliament of Canada.⁽²¹¹⁾

[Assented to 23rd May, 1933.]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as the *Extra-territorial Act*, Short title. 1933.

2. Every Act of the Parliament of Canada now in force enacted prior to the eleventh day of December, 1931, which in terms or by necessary or reasonable implication was intended, as to the whole or any part thereof, to have extra-territorial operation, shall be construed as if at the date of its enactment the Parliament of Canada then had full power to make laws having extra-territorial operation as provided by the Statute of Westminster, 1931.

Acts of the
Parliament
of Canada
to have
extra-
territorial
operation.

⁽²¹¹⁾ Section 3 of the Statute of Westminster reads as follows:

“3. It is hereby declared and enacted that the Parliament of a Dominion has full power to make laws having extra-territorial operation.”

The right of extra-territoriality, which is one of the attributes of sovereignty, is the operation of laws upon the persons, the rights and the statutes existing outside of the limits of a State but continuing however to be subject to the laws of that State. It means for a nation the right to legislate for its own nationals outside of the three-mile limit of its own territory, in such a way as to subject them to its own laws when they return to their country's jurisdiction.

The above legislation has had the effect of confirming the extra-territorial application of the Acts of the Canadian Parliament.

THE CANADIAN CITIZENSHIP ACT.⁽²¹²⁾

10 GEORGE VI, CHAPTER 15.

An Act respecting Citizenship, Nationality, Naturalization and Status of Aliens.

[Assented to 27th June, 1946.]

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

SHORT TITLE.

Short title.

1. This Act may be cited as *The Canadian Citizenship Act*.

INTERPRETATION.

Definitions.

"Canadian citizen."

"Canadian ship."
1934, c. 44.

"certificate of citizenship."

"certificate of naturalization."

"Clerk" or
"Clerk of
the Court."

"consulate."

"country of
the British
Commonwealth."

2. In this Act, unless the context otherwise requires,

(a) "Canadian citizen" means a person who is a Canadian citizen under this Act;

(b) "Canadian ship" means a 'ship registered in Canada' within the meaning of the *Canada Shipping Act, 1934*;

(c) "certificate of citizenship" means a certificate of citizenship granted under this Act;

(d) "certificate of naturalization" means a certificate of naturalization granted under any Act heretofore in force in Canada;

(e) "Clerk" or "Clerk of the Court" includes all officers exercising the functions of prothonotary, registrar or clerk of any court having jurisdiction under this Act, and, where a person is designated by the Governor in Council as a court under this Act, means the said person;

(f) "consulate" means the office of a Canadian consular officer and includes the office of a Canadian Ambassador, Minister or High Commissioner or of a Canadian Trade Commissioner; and includes the office of a consular or other officer of any other country of the British Commonwealth where a register of births is kept;

(g) "country of the British Commonwealth" means for the purposes of this Act a country listed in the First Schedule to this Act or a country declared for the purposes of this Act to be a country of the British Commonwealth of Nations by proclamation issued under this Act, and includes, in the case of any such country, all colonies, dependencies or territories thereof;

⁽²¹²⁾ The purpose of an Act on Canadian citizenship is to define clearly this symbol of nationhood, the nationality or citizenship status.

- (h) "Court" means any Superior, Circuit, County or District Court, and includes in the province of Quebec any district magistrate, and, in the Northwest Territories and in the Yukon Territory, any stipendiary magistrate or any other person designated by the Governor in Council under this Act; "Court."
- (i) "disability" means the incapacity of a minor, a lunatic or an idiot; "disability."
- (j) "domicile", for the purposes of this Act, means the place in which a person has his home or in which he resides and to which he returns as his place of permanent abode and does not mean the place where he resides for a mere special or temporary purpose, and "Canadian domicile" means such domicile maintained in Canada for at least five years; "domicile."
"Canadian domicile."
- (k) "Minister" means the Secretary of State of Canada; "Minister."
- (l) "minor" means a person who has not attained the age of twenty-one years; "minor."
- (m) "regulation" means a regulation made by the Governor in Council under this Act; and "regulation."
- (n) "responsible parent" means the father: except that, where the father is dead, or where the custody of a child has been awarded to his mother by order of a court of competent jurisdiction, or where a child was born out of wedlock and resides with the mother, "responsible parent" means the mother. "responsible parent."

3. Where a person is required to state or declare his national status, any person who is a Canadian citizen under this Act shall state or declare himself to be a Canadian citizen and his statement or declaration to that effect shall be a good and sufficient compliance with such requirement. Declaration of Canadian citizenship an adequate statement of national status.

PART I.

NATURAL-BORN CANADIAN CITIZENS.

4. A person, born before the commencement of this Act, is a natural-born Canadian citizen:—

- (a) if he was born in Canada or on a Canadian ship and has not become an alien at the commencement of this Act; or Born before the commencement of the Act.

By reason of the particular structure of the British Commonwealth of Nations Canadians find that they have a sort of dual personality. As subjects of a King who resides in Britain they are British subjects; as nationals of a sovereign and democratic country called Canada, they are Canadian citizens. Therefore it is evident that all British subjects are not Canadians but all Canadian citizens are British subjects. So far as Canadians are concerned the residence of the King is only incidental—he might as well reside in Canada, for he is King of Canada in the same manner as he is King of the United Kingdom. In other words the title of His Majesty, the succession to the Throne and other such incidents are to be determined by joint consultation of the different kingdoms, and the parliament and government which sit at Westminster and administer the United Kingdom from London have no control or jurisdiction over the parliament and government at Ottawa.

- (b) if he was born outside of Canada elsewhere than on a Canadian ship and his father, or in the case of a person born out of wedlock, his mother
 - (i) was born in Canada or on a Canadian ship and had not become an alien at the time of that person's birth, or
 - (ii) was, at the time of that person's birth, a British subject who had Canadian domicile,
 if, at the commencement of this Act, that person has not become an alien, and has either been lawfully admitted to Canada for permanent residence or is a minor.

Born after
the com-
mencement of
the Act.

5. A person, born after the commencement of this Act, is a natural-born Canadian citizen:—

- (a) if he is born in Canada or on a Canadian ship; or
- (b) if he is born outside of Canada elsewhere than on a Canadian ship, and
 - (i) his father, or in the case of a child born out of wedlock, his mother, at the time of that person's birth, is a Canadian citizen by reason of having been born in Canada or on a Canadian ship, or having been granted a certificate of citizenship or having been a Canadian citizen at the commencement of this Act, and
 - (ii) the fact of his birth is registered at a consulate or with the Minister, within two years after its occurrence or within such extended period as may be authorized in special cases by the Minister, in accordance with the regulations.

Conditions
for retention
of Canadian
citizenship
by persons
born outside
of Canada.

6. Notwithstanding anything contained in section four or section five of this Act, a person who is, at the commencement of the Act, a minor born outside of Canada elsewhere than on a Canadian ship and who has not been lawfully admitted to Canada for permanent residence, or who is born after the commencement of this Act and outside of Canada elsewhere than on a Canadian ship, shall cease to be a Canadian citizen upon the expiration of one year after he attains the age of twenty-one years unless after attaining that age and before the expiration of the said year

- (a) he asserts his Canadian citizenship by a declaration of retention thereof, registered in accordance with the regulations; and
- (b) if he is a national or citizen of a country other than Canada under the law of which he can, at the time of asserting his Canadian citizenship, divest himself of the nationality or citizenship of that country by making a declaration of alienage or otherwise, he divests himself of such nationality or citizenship:

These then are the principles at the basis of Canadian international status. Now to summarize the philosophy and history of Canadian nationality:

Nationality we know to be the political and juridical bond which unites the individual to the state. Where there is a state, that is a permanent and independent gathering of men, owners of a common territory, associated under a common authority, nationality will follow.

Provided that in any special case the Minister may extend the time during which any such person may assert his Canadian citizenship and divest himself of the other nationality or citizenship, in which case upon so doing within the said time he shall thereupon again become a Canadian citizen.

Proviso,
special case.

7. Every foundling who is or was first found as a deserted infant in Canada, shall, until the contrary is proved, be deemed to have been born in Canada.

Foundlings.

8. Where a child is born after the death of his father, the child shall, for the purposes of this Part, be deemed to have been born immediately before the death of the father.

Child born
after death
of his father.

PART II.

CANADIAN CITIZENS OTHER THAN NATURAL-BORN.

9. (1) A person other than a natural-born Canadian citizen, is a Canadian citizen, if he

On com-
mencement of
the Act.

(a) was granted, or his name was included in a certificate of naturalization and he has not become an alien at the commencement of this Act; or

(b) immediately before the commencement of this Act was a British subject who had Canadian domicile;

or, in the case of a woman,

(c) if she

(i) before the commencement of this Act, was married to a man who, if this Act had come into force immediately before the marriage, would have been a natural-born Canadian citizen as provided in section four of this Act or a Canadian citizen as provided in paragraphs (a) and (b) of this subsection, and

(ii) at the commencement of this Act, is a British subject and has been lawfully admitted to Canada for permanent residence.

(2) A person who is a Canadian citizen under subsection one of this section shall be deemed, for the purpose of Part III of this Act, to have become a Canadian citizen:—

When
deemed
to have
become
Canadian
citizens.

(a) where he was granted, or his name was included in, a certificate of naturalization, on the date of the certificate;

(b) where he is a Canadian citizen by reason of being a British subject who had Canadian domicile, on the date he acquired Canadian domicile; and

(c) in the case of a woman to whom paragraph (c) of subsection one of this section applies, on the date of the marriage or on which she became a British subject or on which she was lawfully admitted to Canada for permanent residence, whichever is the latest date.

Those having the nationality of a country are generally called subjects, citizens or nationals—subjects as in a kingdom, for instance, British subjects; citizens as in a republic or other democracy, for instance, American citizens or Canadian citizens or even United Kingdom citizens. National is a more general term which is well understood and indicates allegiance to a country. Previous to the passing of *The Canadian Citizenship Act*, Canada had Canadian nationals, but the act defining them is repealed by the new act defining Canadian citizens. Each state claims for itself the right to define and apply its own principles and rules as regards nationality.

Grant of a
certificate of
Canadian
citizenship.

10. (1) The Minister may grant a certificate of Canadian citizenship to any person who is not a Canadian citizen, and who makes application for that purpose and satisfies the Court that:—

- (a) either he has filed in the office of the Clerk of the Court for the judicial district in which he resides, not less than one nor more than five years prior to the date of his application, a declaration of intention to become a Canadian citizen, the said declaration having been filed by him after he attained the age of eighteen years; or he is the spouse of and resides in Canada with a Canadian citizen; or he is a British subject;
- (b) he has been lawfully admitted to Canada for permanent residence therein;
- (c) he has resided continuously in Canada for a period of one year immediately preceding the date of the application and, in addition, except where the applicant has served outside of Canada in the armed forces of Canada during time of war or where the applicant is the wife of and resides in Canada with a Canadian citizen, has also resided in Canada for a further period of not less than four years during the six years immediately preceding the date of the application;
- (d) he is of good character;
- (e) he has an adequate knowledge of either the English or the French language, or, if he has not such an adequate knowledge, he has resided continuously in Canada for more than twenty years;
- (f) he has an adequate knowledge of the responsibilities and privileges of Canadian citizenship; and that
- (g) he intends, if his application is granted, either to reside permanently in Canada or to enter or continue in the public service of Canada or of a province thereof.

Grant of
certificate
to British
subjects.

Proviso.

(2) Notwithstanding the provisions of subsection one of this section, the Minister may grant a certificate of Canadian citizenship to any person who is a British subject and who makes to the Minister a declaration that he desires such certificate and who satisfies the Minister that he possesses the qualifications prescribed by paragraphs (b), (c), (d), (e), (f) and (g) of subsection one of this section: Provided that in any case where, in the opinion of the Minister, there is doubt as to whether the applicant possesses the said qualifications, the Minister before granting such a certificate may refer the declaration and the material in support thereof to the court in the judicial district in which the declarant resides, and the declaration shall thereupon be dealt with as an application under subsection one of this section.

Special
certificate
to minor
children.

(3) The Minister may grant a special certificate of citizenship to a minor child of a person to whom a certificate of citizenship is, or has been, granted under this Act, on the application of the said person,

The special structure of the British Empire and of the British Commonwealth of Nations has rendered rather difficult a study of nationality in the United Kingdom, the dominions, colonies and protectorates. Canada which is a sovereign state and recognized in international law as a person *sui generis* has clarified once and for all the status of its nationals who, while retaining their status of British subjects, will in future be known as Canadian citizens.

- (a) if the said person is the responsible parent of the child, and
- (b) if the child was born before the date of the certificate granted to the said person and has been lawfully admitted to Canada for permanent residence.

(4) Any period during which an applicant for a certificate of citizenship has served in the armed forces of Canada or was employed outside of Canada in the public service of Canada or of a province thereof, otherwise than as a locally engaged person, shall be treated as equivalent to a period of residence in Canada for the purposes of subsection one and subsection two of this section.

Period in armed forces or public service equivalent to residence.

(5) No period during which an applicant for a certificate of citizenship was confined in or an inmate of any penitentiary, gaol, reformatory, prison, or asylum for the insane, in Canada, shall be counted as a period of residence in Canada for the purposes of subsection one and subsection two of this section.

Period in penitentiary etc., not to be counted as residence.

11. The Minister may, in his discretion, upon application, grant a certificate of citizenship to

Grant of certificate of citizenship in certain cases.

- (a) a person with respect to whose status as a Canadian citizen a doubt exists and the certificate may specify that the grant thereof is made for the purpose of removing doubts as to whether the person named therein is a Canadian citizen and the granting of the certificate shall not be deemed to establish that the person to whom it is granted was not previously a Canadian citizen;
- (b) a minor in any special case whether or not the conditions required by this Act have been complied with; or
- (c) a person who was an alien and who was naturalized under any Naturalization Act in force in Canada before the passing of *The Naturalization Act, 1914*.

1914, c. 44.

12. A certificate of citizenship granted to any person under this Part, other than to a minor under the age of fourteen years, shall not take effect until the applicant has taken the oath of allegiance set forth in the Second Schedule to this Act, and thereupon the said person shall become a Canadian citizen.

Certificate not effective till oath of allegiance taken.

13. Except as provided by this Act in the case of minors, a certificate of citizenship shall not be granted to any person under a disability.

Certificate not to be granted to persons under a disability.

14. (1) Before granting a certificate of citizenship to any person whose application has been approved by the court, the Minister may, if he is in doubt whether the certificate should be granted, refer the application to the court for another hearing to be known as a rehearing.

Rehearing.

Before Confederation the British common law and imperial statutes respecting nationality applied to Canada. Generally speaking, the common law regulated nationality in Great Britain up to 1844 when the *Naturalization Act* was passed. This act did not extend to the colonies. The *Canadian Naturalization Act* was passed in 1881 and came into force in 1883. It was agreed at the Imperial Conference of 1907 that a Naturalization Act should be passed establishing uniformity within the Empire, that is, that imperial nationality should be world wide, with each dominion being left free to grant local nationality, the imperial act to apply to the dominions if adopted by them and nothing proposed to affect the effectiveness of local laws regulating immigration or the like or differentiating between classes of British subjects.

Notice.

(2) Where the Minister refers an application for a rehearing, he shall give notice in writing by registered mail of the rehearing to the applicant at the postal address shown in the application, and the rehearing shall not be proceeded with until the expiration of at least thirty days after the mailing of the said notice.

Production of evidence.

(3) An applicant shall, on a rehearing, produce to the court such evidence as the court may require that he is qualified and fit to be granted a certificate of citizenship and shall also personally appear before the court for examination.

Decision to be final.

(4) The decision of the court on a rehearing shall be final and conclusive as regards the application.

New application allowed.

15. An applicant whose application has been rejected by the Court on a hearing or rehearing may make another application under section ten of this Act after the expiration of a period of two years from the date of such rejection.

PART III.

LOSS OF CANADIAN CITIZENSHIP.

On acquisition of other nationality.

16. A Canadian citizen who, when outside of Canada and not under a disability, by any voluntary and formal act other than marriage, acquires the nationality or citizenship of a country other than Canada shall thereupon cease to be a Canadian citizen.

By renunciation where dual nationality.

17. (1) Where a natural-born Canadian citizen, at his birth or during his minority, or any Canadian citizen on marriage, became or becomes under the law of any other country a national or citizen of that country, if, after attaining the full age of twenty-one years, or after the marriage, he makes, while not under disability, and still such a national or citizen, a declaration renouncing his Canadian citizenship, he shall thereupon cease to be a Canadian citizen.

Canadian citizen, serving in armed forces of another country.

(2) Where a Canadian citizen who is under the law of any other country a national or a citizen of that country serves in the armed forces of any country when it is at war with Canada, he shall thereupon cease to be a Canadian citizen.

Child of parent ceasing to be a Canadian citizen.

18. (1) Where the responsible parent of a minor child ceases to be a Canadian citizen under section sixteen or section seventeen of this Act, the child shall thereupon cease to be a Canadian citizen if he is or thereupon becomes, under the law of any other country, a national or citizen of that country.

Declaration for resuming Canadian citizenship.

(2) A person who has ceased to be a Canadian citizen under subsection one of this section may, within one year after attaining the age of twenty-one years or in special circumstances

The act of the United Kingdom was passed in 1914, and Canada subsequently passed its own legislation in line therewith. British subjects became British subjects throughout the Empire, which did not mean, however, that British subjects from the other dominions had the same rights in Canada as the Canadians. This was made clear from the *Immigration Act* of 1910 which defined Canadian citizens and the *Canadian Nationals Act* of 1921 which defined "any British subject who is a Canadian citizen" as a Canadian national. Thus Canada's own people became British subjects of Canadian nationality.

with the consent of the Minister within any longer period than one year, make a declaration that he wishes to resume Canadian citizenship and he shall thereupon again become a Canadian citizen.

19. Where a person ceases to be a Canadian citizen as provided in section sixteen, section seventeen or section eighteen of this Act, if he is at such time or thereupon becomes a national or citizen of a country other than a country of the British Commonwealth, he thereupon ceases to be a British subject.

When loss of Canadian citizenship involves loss of British nationality.

20. A Canadian citizen, other than a natural-born Canadian citizen or a Canadian citizen who has served in the armed forces of Canada in time of war and been honourably discharged therefrom, ceases to be a Canadian citizen if he resides outside of Canada for a period of at least six consecutive years exclusive of any period during which,

By residence outside of Canada for six years.

- (a) he is in the public service of Canada or of a province thereof;
- (b) he is a representative or employee of a firm, business, company or organization, religious or otherwise, established in Canada or of an international agency of an official character in which Canada participates;
- (c) he resides outside of Canada on account of ill-health or disability;
- (d) he is the spouse or minor child of, and resides outside of Canada for the purpose of being with a spouse or parent who is a Canadian citizen residing outside of Canada for any of the objects or causes specified in paragraphs (a) to (c) inclusive of this section;
- (e) he is the spouse of, and resides outside of Canada for the purpose of being with a spouse who is a natural-born Canadian citizen; or
- (f) his Canadian citizenship is certified to be extended by endorsement of his certificate of citizenship, or if he has no certificate of citizenship, of his passport, by the officer in charge of a consulate, which endorsement shall state that the Canadian citizen appeared before the officer prior to the expiration of the said period of six years and established
 - (i) that his absence from Canada was of a temporary nature, and
 - (ii) that he intended in good faith to return to Canada for permanent residence as a Canadian citizen,
 and shall be in such form and may extend his Canadian citizenship for such period as may be prescribed by regulation.

To summarize: "The members of the Commonwealth are united by a common allegiance to the Crown which is the basis of the common status possessed by all subjects of His Majesty. This common status is in no way inconsistent with the recognition within and without the Commonwealth of the distinct nationality, possessed by the nationals of the individual states of the British Commonwealth."

To conclude: Canadians have found it wise and expedient to remain British subjects but they have realized that they are now also and above all Canadian citizens. They have acquired through their own efforts, more especially through the sacrifices of those who have given their lives on the battlefields, a strong consciousness of national unity and a great pride in their country.

By revoca-
tion of
Canadian
citizenship.

21. (1) The Governor in Council may order that any person other than a natural-born Canadian citizen shall cease to be a Canadian citizen if, upon a report from the Minister, he is satisfied that the said person either

- (a) has, during any war in which Canada is or has been engaged, unlawfully traded or communicated with the enemy or with a subject of an enemy state or has been engaged in or associated with any business which to his knowledge is carried on in such manner as to assist the enemy in such war;
- (b) has obtained a certificate of naturalization or of Canadian citizenship by false representation or fraud or by concealment of material circumstances;
- (c) has, since becoming a Canadian citizen or being naturalized in Canada, been for a period of not less than six years ordinarily resident out of Canada and has not maintained substantial connection with Canada; or
- (d) if out of Canada, has shown himself by act or speech to be disaffected or disloyal to His Majesty, or, if in Canada, has been convicted of treason or sedition by a court of competent jurisdiction.

Notice and
reference for
inquiry.

(2) The Minister before making a report under this section shall cause notice to be given or sent to the last known address of the person in respect of whom the report is to be made, giving him an opportunity of claiming that the case be referred for such inquiry as is hereinafter specified and if said person so claims in accordance with the notice, the Minister shall refer the case for inquiry accordingly.

Inquiry by
Commission.

(3) An inquiry under this section shall be held by a commission constituted for the purpose by the Governor in Council upon the recommendation of the Minister, presided over by a person appointed by the Governor in Council who holds or has held high judicial office, and shall be conducted in such manner as the Governor in Council shall order: Provided that any such inquiry may, if the Governor in Council thinks fit, instead of being held by such commission, be held by the superior court of the province in which the person concerned resides, and the practice and procedure on any inquiry so held shall be regulated by rules of court.

Proviso.

Powers of
Commission.

(4) The members of any commission appointed under this section shall have all such powers, rights and privileges as are vested in any superior court or in any judge thereof on the occasion of any action in respect of

- (a) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise, and the issue of a commission or a request to take evidence abroad;
- (b) compelling the production of documents; and
- (c) punishing persons guilty of contempt;

and a summons signed by one or more members of the Commission may be substituted for and shall be equivalent to any formal process capable of being issued in any action for enforcing the attendance of witnesses and compelling the production of documents.

(5) Where the Governor in Council, under this section, directs that any person cease to be a Canadian citizen, the order shall have effect from such time as the Governor in Council may direct and thereupon the said person shall cease to be a Canadian citizen and shall give up and surrender for cancellation any certificate of citizenship or naturalization granted to him and any person omitting to give up the said certificate shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding five hundred dollars.

Cancellation
of certificate.

22. The Governor in Council may, with the concurrence of a government of a country of the British Commonwealth other than Canada, revoke a certificate of naturalization granted in the said country to a person who resides in Canada and the provisions of section twenty-one of this Act shall apply *mutatis mutandis* in respect of the said revocation.

Revocation
of certificate
granted
in other
country of
the British
Common-
wealth.

23. (1) Where a person ceases to be a Canadian citizen under section twenty or under section twenty-one or a British subject under section twenty-two of this Act, the citizenship or status as to nationality of the spouse and minor children of the said person shall not be affected thereby except as provided in this section.

Citizenship
of spouse
or minor
children.

(2) Where a person ceases to be a Canadian citizen under section twenty or section twenty-one or a British subject under section twenty-two of this Act, if

When wife or
child shall
cease to be
a Canadian
citizen.

- (a) the wife of the said person became a British subject by reason only of her marriage to the said person; or
- (b) the said person is the responsible parent of a child, the Governor in Council may direct that the said wife or the said children shall cease to be Canadian citizens or British subjects, as the case may be.

(3) The wife of a person who has ceased to be a Canadian citizen under section twenty or under section twenty-one or a British subject under section twenty-two of this Act, may within six months thereafter make a declaration renouncing her Canadian citizenship or her status as a British subject and thereupon any minor children of her husband and herself shall cease to be Canadian citizens or British subjects, as the case may be.

Declaration
renouncing
Canadian
citizenship.

24. Where a person ceases to be a Canadian citizen as provided in section twenty, section twenty-one or section twenty-three, or ceases to be a British subject as provided in section twenty-two or section twenty-three of this Act, he shall be regarded as having the nationality or citizenship which he had before he became a Canadian citizen or a British subject, as the case may be.

Reversion
to prior
nationality.

25. Where a person ceases to be a Canadian citizen or a British subject, he shall not thereby be discharged from any obligation, duty or liability in respect of any act or thing done or omitted before he ceased to be a Canadian citizen or a British subject.

Saving of
obligations
incurred
before loss of
citizenship.

PART IV.

STATUS OF CANADIAN CITIZENS AND RECOGNITION OF
BRITISH SUBJECTS.

Canadian
citizen a
British
subject.

26. A Canadian citizen is a British subject.

Rights and
obligations.

27. A Canadian citizen other than a natural-born Canadian citizen shall, subject to the provisions of this Act, be entitled to all rights, powers and privileges and be subject to all obligations, duties and liabilities to which a natural-born Canadian citizen is entitled or subject and, on and after becoming a Canadian citizen, shall, subject to the provisions of this Act, have a like status to that of a natural-born Canadian citizen.

British sub-
jects under
the laws of
other coun-
tries of the
British Com-
monwealth.

28. A person, who has acquired the status of British subject by birth or naturalization under the laws of any country of the British Commonwealth other than Canada to which he was subject at the time of his birth or naturalization, shall be recognized in Canada as a British subject.

PART V.

STATUS OF ALIENS.

Rights
of aliens.

29. (1) Real and personal property of every description may be taken, acquired, held and disposed of by an alien in the same manner in all respects as by a natural-born Canadian citizen; and a title to real and personal property of every description may be derived through, from or in succession to an alien in the same manner in all respects as through, from or in succession to a natural-born Canadian citizen.

Disabilities.

- (2) This section shall not operate so as to
- (a) qualify an alien for any office or for any municipal, parliamentary or other franchise;
 - (b) qualify an alien to be the owner of a Canadian ship;
 - (c) entitle an alien to any right or privilege as a Canadian citizen except such rights and privileges in respect of property as are hereby expressly given to him; or
 - (d) affect an estate or interest in real or personal property to which any person has or may become entitled, either mediately or immediately, in possession or expectancy, in pursuance of any disposition made before the fourth day of July, one thousand eight hundred and eighty-three, or in pursuance of any devolution by law on the death of any person dying before that day.

Trial of
alien.

30. An Alien shall be triable at law in the same manner as if he were a natural-born Canadian citizen.

PART VI.

PROCEDURE AND EVIDENCE.

Application,
where made.

31. An application for a certificate of citizenship shall be made to the Court in the judicial district in which the applicant resides or as otherwise prescribed by regulation.

32. An application for a certificate of citizenship shall be filed with the Clerk of the Court and shall be posted by the Clerk in a conspicuous place in his office, or as otherwise prescribed by regulation, continuously for a period of at least three months before the application is heard by the Court.

To be filed with the clerk of the Court.
Posting.

33. At any time after the filing of an application for a certificate of citizenship and previous to the hearing of the application, any person objecting to the granting of the certificate to the applicant may file in the Court an opposition in which shall be stated the grounds of his objection.

Filing of opposition.

34. The applicant for a certificate of citizenship shall produce to the Court such evidence as the Court may require that he is qualified and fit to be granted a certificate under the provisions of this Act, and shall personally appear before the Court for examination unless it is established to the satisfaction of the Court that he is prevented from so appearing by some good and sufficient cause.

Production of evidence.

Applicant to appear personally.

35. If the Court decides that the applicant for a certificate of citizenship is a fit and proper person to be granted such certificate and possesses the required qualifications, a certified copy of the decision shall be transmitted by the Clerk of the Court to the Minister together with the application and such other papers, documents and reports as may be required by regulation.

Copy of favourable decision transmitted to the Minister.

36. When the Minister receives a decision of the Court under section thirty-five of this Act, he may thereupon issue a certificate of citizenship and shall send the certificate to the Clerk of the Court by whom such decision was forwarded, or as otherwise prescribed by regulation, and upon the applicant taking the oath of allegiance, the Clerk shall deliver the certificate to the applicant after having endorsed thereon the date of the taking of the oath of allegiance which date shall be the date of the certificate of citizenship.

Issuance and delivery of certificate.

Oath of allegiance.

Date of certificate.

37. The Minister, with the approval of the Governor in Council, shall take such measures as to him may appear fitting to provide facilities to enable applicants for certificates of citizenship to receive instruction in the responsibilities and privileges of Canadian citizenship.

Instruction in the responsibilities and privileges of Canadian citizenship.

38. The Court, in the conduct of proceedings under this Act, shall, by appropriate ceremonies, impress upon applicants the responsibilities and privileges of Canadian citizenship.

Proceedings in Court.

PART VII.

GENERAL.

39. (1) The Governor in Council may make regulations generally for carrying into effect the purposes and provisions of this Act, and in particular with respect to the following matters:—

Regulations.

(a) the forms to be used under this Act including the form and manner of registration of declarations and of certificates;

- (b) the time within which the oath of allegiance is to be taken after the issue of a certificate of citizenship;
- (c) the persons before whom the oath of allegiance may be taken and the persons before whom any declarations under this Act may be made;
- (d) the form in which the taking of oaths of allegiance is to be attested and the registration thereof;
- (e) the persons by whom certified copies of oaths of allegiance may be given; and the proof in any legal proceeding of any such oaths;
- (f) the imposition and application of fees in respect of any registration authorized to be made by this Act or any Act heretofore in force in Canada and in respect of the making of any declaration or the grant of any certificate authorized to be made or granted by this Act or any Act heretofore in force in Canada, and in respect of the administration or registration of any oath;
- (g) the expedient and fitting procedure to be followed in the conduct of proceedings before the Court to impress upon applicants the responsibilities and privileges of Canadian citizenship;
- (h) the manner of proof of any qualification required for the grant of a certificate of citizenship under this Act; and
- (i) the manner of proof of Canadian citizenship and the granting of special certificates for such purpose.

Powers of
Governor in
Council.

- (2) The Governor in Council may
 - (a) authorize the issue of a proclamation declaring that any part of His Majesty's dominions not listed in the first schedule to this Act is a country of the British Commonwealth for the purposes of this Act;
 - (b) designate persons in the Northwest Territories and in the Yukon Territory who shall constitute courts for the purposes of this Act.

Regulations
to be laid
before
Parliament.

(3) All such regulations shall be laid before Parliament within fifteen days after they are made if Parliament is then sitting, or if Parliament is not then sitting, within fifteen days after the commencement of the next ensuing session thereof.

Evidence of
declarations.

40. Any declaration made under this Act or under any Act heretofore in force may be proved in any legal proceeding by the production of the original declaration or of any copy thereof certified to be a true copy by the Minister or by any person authorized by him in that behalf, without proof of such authorization, and the production of the declaration or copy shall be evidence of the contents thereof and of the person therein named as declarant having made the declaration at the date therein mentioned.

Evidence of
certificate.

41. A certificate of citizenship or a certificate of naturalization may be proved in any legal proceeding by the production of the original certificate or of any copy thereof certified to be a true copy by the officer or persons authorized to issue such certificate of citizenship or such certificate of naturalization or by any person authorized by such officer or person in that behalf, without proof of such authorization.

42. Entries made in any register in pursuance of this Act or under any Act heretofore in force may be proved by such copies and certified in such manner as may be directed by the Minister, and the copies of any such entries shall be evidence of any matters, by this Act or by any regulation of the Governor in Council or of the Minister, authorized to be inserted in the register.

Evidence of entries and certification of copies.

43. Where any question arises under this Act as to whether any person had Canadian domicile immediately prior to the coming into force of this Act, the question shall be determined by the same authority and in a like manner as if it arose under the *Immigration Act* and the determination thereof in such manner shall be final and conclusive for the purposes of this Act.

Question of domicile, how determined.

R.S., c. 93.

44. If any person for any of the purposes of this Act knowingly makes any false representation or any statement false in a material particular, he shall be guilty of an offence and liable on summary conviction in respect of each offence to imprisonment with or without hard labour for any term not exceeding three months.

Penalty for false representation or statement.
Offence.

45. (1) The *Naturalization Act*, chapter one hundred and thirty-eight of the Revised Statutes of Canada, 1927 and the *Canadian Nationals Act*, chapter twenty-one of the Revised Statutes of Canada, 1927, are repealed.

Acts repealed.

(2) Where, in any Act of the Parliament of Canada or any order or regulation made thereunder, any provision is made applicable in respect of

New status to apply.

(a) a "natural-born British subject" it shall apply in respect of a "natural-born Canadian citizen"; or

(b) a "naturalized British subject" it shall apply in respect of a "Canadian citizen other than a natural-born Canadian citizen"; or

(c) a "Canadian national" it shall apply in respect of a "Canadian citizen";

under this Act, and where in any Act, order or regulation aforesaid any provision is made in respect of the status of any such person as a Canadian national or British subject it shall apply in respect of his status as a Canadian citizen or British subject under this Act.

46. (1) Notwithstanding the repeal of the *Naturalization Act* and the *Canadian Nationals Act*, this Act is not to be construed or interpreted as depriving any person who is a Canadian national, a British subject or an alien as defined in the said Acts or in any other law in force in Canada of the national status he possesses at the time of the coming into force of this Act.

Saving.

(2) This Act is to be construed and interpreted as affording facilities for any person mentioned in the last preceding subsection if he should so desire to become a Canadian citizen if

Construction as to facilities for becoming Canadian citizen.

he is not a natural-born Canadian citizen as defined in this Act, and if he possesses the qualifications for Canadian citizenship as defined in this Act.

Coming
into force.

47. This act shall come into force upon a date to be fixed by proclamation of the Governor in Council.

SCHEDULES.

FIRST SCHEDULE.

The United Kingdom.

Canada.

The Commonwealth of Australia (including for the purposes of this Act the territory of Papua and Norfolk Island).

The Dominion of New Zealand.

The Union of South Africa.

Ireland.

Newfoundland.

SECOND SCHEDULE.

Oath of Allegiance.

I, A.B., swear that I will be faithful and bear true allegiance to His Majesty King George the Sixth, his Heirs and Successors, according to law, and that I will faithfully observe the laws of Canada and fulfil my duties as a Canadian citizen.

So help me God.

THE WAR MEASURES ACT.

R.S., 1927, CHAPTER 206.

An Act to confer certain powers upon the Governor in Council in the event of War, Invasion, or Insurrection.⁽²¹³⁾.

SHORT TITLE.

1. This Act may be cited as the War Measures Act. 1914 Short title.
(2nd session), c. 2, s. 1.

EVIDENCE OF WAR.

2. The issue of a proclamation by His Majesty, or under the authority of the Governor in Council shall be conclusive evidence that war, invasion, or insurrection, real or apprehended, exists and has existed for any period of time therein stated, and of its continuance, until by the issue of a further proclamation it is declared that the war, invasion or insurrection no longer exists. 1914 (2nd session), c. 2, s. 4. Evidence of war, etc.

POWERS OF THE GOVERNOR IN COUNCIL.⁽²¹⁴⁾

3. The Governor in Council may do and authorize such acts and things, and make from time to time such orders and regulations, as he may by reason of the existence of real or apprehended war, invasion or insurrection deem necessary or advisable for the security, defence, peace, order and welfare of Canada; and for greater certainty, but not so as to restrict the Special powers of Governor in Council.

⁽²¹³⁾ The War Measures Act, passed in August, 1914, constituted an expedient the purpose of which was to transfer the supreme powers of Parliament, in times of war, from Parliament to the Cabinet. This Act allowed the Cabinet, by order in council, to exercise all the powers possessed by Parliament "necessary or advisable for the security, defence, peace, order or welfare of Canada . . . by reason of the existence of real or apprehended war, invasion or insurrection."

The War Measures Act was, in this country, the counter part of the Act of the United Kingdom passed during the first war and intituled "Defence of the Realm Act". But whereas that Act (D.O.R.A.) was repealed by the Imperial Parliament after 1918, the War Measures Act remained in our statutes and it only had to be proclaimed on the first of September, 1939. Just as war eliminates all conflicts of jurisdiction by granting supremacy to the federal parliament, in the same manner peace restores the *status quo ante bellum* and gives back to the legislatures of the provinces the sovereignty they normally possess in their own field.

The War Measures Act ceases to be in force when the exceptional necessity which is supposed to have been in existence on the declaration of war has ended. This necessity however may continue to exist for a while after the end of hostilities. This is a question of fact which can only be decided by the courts. See on this subject the judgment of the Privy Council in the case of *Fort Frances Pulp and Power Co. v. Manitoba Free Press Co.* (1923) A.C. 695. See also a decision of the Supreme Court of the United States in the case of *Hamilton v. Kentucky Distilleries Co.* (251 Q.S., 146).

⁽²¹⁴⁾ "In the event of war, when the national life may require for its preservation the employment of very exceptional means, the provision of peace, order and good government for the country as a whole may involve effort on behalf of the whole nation, in which the interest of individuals may have to be subordinated to that of the community in a fashion which requires s. 91 to be interpreted as providing for such an emergency. The general control of property and civil rights for normal purposes remains with the Provincial Legislatures. But questions may arise by reason of the special circumstances of the national emergency which concern nothing short of the peace, order and good government of Canada as a whole." Viscount Haldane in the case of *Fort Frances Pulp and Power Co. v. Manitoba Free Press Co.* (1923) A.C. 695.

generality of the foregoing terms, it is hereby declared that the powers of the Governor in Council shall extend to all matters coming within the classes of subjects hereinafter enumerated, that is to say:—

- (a) Censorship and the control and suppression of publications, writings, maps, plans, photographs, communications and means of communication;
- (b) Arrest, detention, exclusion and deportation;
- (c) Control of the harbours, ports and territorial waters of Canada and the movements of vessels;
- (d) Transportation by land, air, or water and the control of the transport of persons and things;
- (e) Trading, exportation, importation, production and manufacture;
- (f) Appropriation, control, forfeiture and disposition of property and of the use thereof.

2. All orders and regulations made under this section shall have the force of law, and shall be enforced in such manner and by such courts, officers and authorities as the Governor in Council may prescribe, and may be varied, extended or revoked by any subsequent order or regulation; but if any order or regulation is varied, extended or revoked, neither the previous operation thereof nor anything duly done thereunder, shall be affected thereby, nor shall any right, privilege, obligation or liability acquired, accrued, accruing or incurred thereunder be affected by such variation, extension or revocation. 1914 (2nd session), c. 2, s. 6.

Imposing
penalties.

4. The Governor in Council may prescribe the penalties that may be imposed for violations of orders and regulations made under this Act, and may also prescribe whether such penalties shall be imposed upon summary conviction or upon indictment, but no such penalty shall exceed a fine of five thousand dollars or imprisonment for any term not exceeding five years, or both fine and imprisonment. 1914 (2nd session), c. 2, s. 10.

Release of
arrested
alien
forbidden.

5. No person who is held for deportation under this Act or under any regulation made thereunder, or is under arrest or detention as an alien enemy, or upon suspicion that he is an alien enemy, or to prevent his departure from Canada, shall be released upon bail or otherwise discharged or tried, without the consent of the Minister of Justice. 1914 (2nd session), c. 2, s. 11.

Limitation.

6. The provisions of the three sections last preceding shall only be in force during war, invasion, or insurrection, real or apprehended. 1914 (2nd session), c. 2, s. 3.⁽²¹⁵⁾

⁽²¹⁵⁾ See the case above mentioned of Fort Frances, etc. It is to be noted that *The National Resources Mobilization Act, 1940* (ch. 13 of the statutes of 1940 as amended by ch. 29 of the statutes of 1942), states also that "the powers conferred . . . shall remain in force only during the continuation of the state of war"

See *The National Emergency Transitional Powers Act, 1945*, as amended by chapter 60 of the statutes of 1946, and also *The Continuation of Transitional Measures Act, 1947* as amended by chapter five of the statutes of 1947-48 which immediately follow in this volume.

PROCEDURE.

7. Whenever any property or the use thereof has been appropriated by His Majesty under the provisions of this Act, or any order in council, order or regulation made thereunder, and compensation is to be made therefor and has not been agreed upon, the claim shall be referred by the Minister of Justice to the Exchequer Court, or to a superior or county court of the province within which the claim arises, or to a judge of any such court. 1914 (2nd session), c. 2, s. 7. Fixing compensation.

8. Any ship or vessel used or moved, or any goods, wares or merchandise dealt with, contrary to any order or regulation made under this Act, may be seized and detained and shall be liable to forfeiture, at the instance of the Minister of Justice, upon proceedings in the Exchequer Court of Canada or in any superior court. 1914 (2nd session), c. 2, s. 8. Forfeitures.

9. Every court mentioned in the two sections last preceding may make rules governing the procedure upon any reference made to, or proceedings taken before, such court or a judge thereof under the said sections. 1914 (2nd session), c. 2, s. 9. Rules.

THE NATIONAL EMERGENCY TRANS- ITIONAL POWERS ACT, 1945.

(As Amended)

9-10 GEORGE VI, CHAPTER 25.

An Act to confer certain transitional powers upon the Governor in Council during the National Emergency arising out of the War.

[Assented to 18th December, 1945.]

Preamble.

R.S., c. 206.

WHEREAS the *War Measures Act* provides that the Governor in Council may do and authorize such acts and things, and make from time to time such orders and regulations, as he may by reason of the existence of real or apprehended war deem necessary or advisable for the security, defence, peace, order and welfare of Canada; And whereas during the national emergency arising by reason of the war against Germany and Japan measures have been adopted under the *War Measures Act* for the military requirements and security of Canada and the maintenance of economic stability; And whereas the national emergency arising out of the war has continued since the unconditional surrender of Germany and Japan and is still continuing; And whereas it is essential in the national interest that certain transitional powers continue to be exercisable by the Governor in Council during the continuation of the exceptional conditions brought about by the war and it is preferable that such transitional powers be exercised hereafter under special authority in that behalf conferred by Parliament instead of being exercised under the *War Measures Act*; And whereas in the existing circumstances it may be necessary that certain acts and things done and authorized and certain orders and regulations made under the *War Measures Act* be continued in force and that it is essential that the Governor in Council be authorized to do and authorize such further acts and things and make such further orders and regulations as he may deem necessary or advisable by reason of the emergency and for the purpose of the discontinuance, in an orderly manner as the emergency permits, of measures adopted during and by reason of the emergency: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

SHORT TITLE.

Short title.

1. This Act may be cited as *The National Emergency Transitional Powers Act, 1945*.

POWERS OF GOVERNOR IN COUNCIL.

Powers of Governor in Council.

2. (1) The Governor in Council may do and authorize such acts and things, and make from time to time such orders and regulations, as he may, by reason of the continued existence of the national emergency arising out of the war against Germany and Japan, deem necessary or advisable for the purpose of

- (a) providing for and maintaining the armed forces of Canada during the occupation of enemy territory and demobilization and providing for the rehabilitation of members thereof,
- (b) facilitating the readjustment of industry and commerce to the requirements of the community in time of peace,
- (c) maintaining, controlling and regulating supplies and services, prices, transportation, use and occupation of property, rentals, employment, salaries and wages to ensure economic stability and an orderly transition to conditions of peace;
- (d) assisting the relief of suffering and the restoration and distribution of essential supplies and services in any part of His Majesty's dominions or in foreign countries that are in grave distress as the result of the war; or
- (e) continuing or discontinuing in an orderly manner, as the emergency permits, measures adopted during and by reason of the war.

(2) All orders and regulations made under this Act or pursuant to authority created under this Act have the force of law while this Act is in force and, together with orders and regulations made under the *War Measures Act* or pursuant thereto, shall, for the purposes of the *Interpretation Act*, be deemed to be regulations.

Orders and regulations.

R.S., c. 206.
R.S., c. 1.

(3) Every order in council made under this Act shall be laid before Parliament within fifteen days after it has been made if Parliament is then sitting, or if Parliament is not then sitting, within fifteen days after the commencement of the next ensuing session thereof and if the Senate and House of Commons within the period of forty days, beginning with the day on which any such order in council is laid before Parliament and excluding any time during which Parliament is dissolved or prorogued or during which both the Senate and House of Commons are adjourned for more than four days, resolve that it be annulled, it shall cease to have effect, but without prejudice to its previous operations or anything duly done or suffered thereunder or any offence committed or any penalty or forfeiture or punishment incurred.

Orders to be laid before Parliament.

May be annulled.

(4) Every order in council made under this Act shall be published forthwith in Statutory Orders and Regulations.

Publication of orders in council.

3. (1) The Governor in Council may prescribe penalties by way of fine or by way of imprisonment for a term not exceeding five years, or by way of both fine and such imprisonment, that may be imposed for violation of orders or regulations made under this Act and may also prescribe whether, and the circumstances in which, the said penalties shall be imposed upon summary conviction or upon indictment or upon either summary conviction or indictment.

Penalties.

(2) Any goods, wares or merchandise dealt with contrary to any order or regulation made under this Act may be seized and detained and shall be liable to forfeiture at the instance of the Minister of Justice, upon proceedings in the Exchequer

Seizure and detention of property.

Court of Canada, or in any Superior Court, and any such Court may make rules governing the procedure upon any proceedings taken before such Court or a Judge thereof under this section.

Orders and regulations under War Measures Act, continued.

4. Without prejudice to any other power conferred by this Act, the Governor in Council may order that the orders and regulations lawfully made under the *War Measures Act* or pursuant to authority created under the said Act in force immediately before the day this Act comes into force shall, while this Act is in force, continue in full force and effect subject to amendment or revocation under this Act.

COMMENCEMENT AND DURATION.

Coming into force.

5. This Act shall come into force on the first day of January, one thousand nine hundred and forty-six, and on and after that day the war against Germany and Japan shall, for the purposes of the *War Measures Act*, be deemed no longer to exist.

Continuation.

6. (1) Subject as hereinafter provided, this Act shall expire on the thirty-first day of December, one thousand nine hundred and forty-six, if Parliament meets during November or December, one thousand nine hundred and forty-six, but if Parliament does not so meet it shall expire on the sixtieth day after Parliament first meets during the year one thousand nine hundred and forty-seven or on the thirty-first day of March, one thousand nine hundred and forty-seven, whichever date is the earlier: Provided that, if at any time while this Act is in force, addresses are presented to the Governor General by the Senate and House of Commons respectively, praying that this Act should be continued in force for a further period, not in any case exceeding one year, from the time at which it would otherwise expire and the Governor in Council so orders, this Act shall continue in force for that further period.

This section repealed and new. 1946, c. 60, s. 1.

Application of s. 19 of R.S., c. 1.

(2) Section nineteen of the *Interpretation Act* shall apply upon the expiry of this Act as if this Act had then been repealed.⁽²¹⁶⁾

"war with Germany and Japan."

7. In this Act "war with Germany and Japan" means the war that commenced on the tenth day of September, one thousand nine hundred and thirty-nine against the German Reich and subsequently against Italy, Finland, Hungary, Rumania and Japan.

⁽²¹⁶⁾ Section six which was repealed and re-enacted by section 1 of ch. 60 of the statutes of 1946 previously read as follows:—

"6. (1) Subject as hereinafter provided, this Act shall expire on the thirty-first day of December, one thousand nine hundred and forty-six, if Parliament meets during November or December, one thousand nine hundred and forty-six, but if Parliament does not so meet it shall expire on the fifteenth day after Parliament first meets during the year one thousand nine hundred and forty-seven; provided that, if at any time while this Act is in force, addresses are presented to the Governor General by the Senate and House of Commons respectively, praying that this Act should be continued in force for a further period, not in any case exceeding one year, from the time at which it would otherwise expire and the Governor in Council so orders, this Act shall continue in force for that further period.

(2) Section nineteen of the *Interpretation Act* shall apply upon the expiry of this Act as if this Act had then been repealed."

THE CONTINUATION OF TRANSITIONAL MEASURES ACT.

(As Amended)

11 GEORGE VI, CHAPTER 16.

An Act to provide for the Continuation of certain Orders and Regulations of the Governor in Council for a limited period during the National Emergency arising out of the War.

[Assented to 14th May, 1947.]

WHEREAS Parliament, in view of the continuation of the national emergency arising out of the war, by *The National Emergency Transitional Powers Act, 1945*, conferred upon the Governor in Council certain transitional powers, pursuant to which the Governor in Council has continued in force certain orders and regulations made under the *War Measures Act* and has made other orders and regulations; And whereas the national emergency arising out of the war, in certain aspects, has continued since the unconditional surrender of Germany and Japan and is still continuing; And whereas provision is made for the expiry of *The National Emergency Transitional Powers Act, 1945*; And whereas it is necessary by reason of the existing national emergency that certain orders and regulations of the Governor in Council made under the *War Measures Act* and *The National Emergency Transitional Powers Act, 1945*, be continued in force temporarily notwithstanding the expiry of *The National Emergency Transitional Powers Act, 1945*, in order to ensure an orderly transition from war to peace: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.
1945 (2nd Sess.), c. 25.
R.S., c. 206.

1. This Act may be cited as *The Continuation of Transitional Measures Act, 1947*.

Short title.

2. (1) Subject to section four of this Act the orders and regulations of the Governor in Council specified in the Schedule to this Act shall, notwithstanding the expiry of *The National Emergency Transitional Powers Act, 1945*, continue and be in force while this Act is in force.

Orders and regulations continued in force.
1945 (2nd Sess.), c. 25.

(2) Notwithstanding subsection one of this section, the orders and regulations specified in the said Schedule shall be read and construed as if the provisions set forth in the column of the said Schedule entitled "Amendments" had been duly enacted as amendments thereto to take effect from the commencement of this Act.

Orders and regulations amended.

3. (1) The Governor in Council may appoint such persons in connection with the administration of any order or regulation continued in force by this Act, as he considers necessary, and may fix their compensation.

Employment of necessary persons.

Persons
deemed
appointed
under
this Act.

(2) All persons appointed under the *War Measures Act* or *The National Emergency Transitional Powers Act, 1945*, in connection with the administration of any of the orders or regulations continued in force by this Act and who, immediately before the expiry of *The National Emergency Transitional Powers Act, 1945*, had not ceased to perform the duties for which they were appointed, shall be deemed to have been appointed pursuant to the provisions of this Act.

Orders and
regulations
may be
revoked.

4. The Governor in Council may revoke in whole or in part any order or regulation continued in force by or made under this Act.

Publication
of orders.

5. Every order of the Governor in Council made under this Act shall be published forthwith in Part II of the *Canada Gazette*.

Coming
into force.

6. This Act shall come into force immediately after the expiry of *The National Emergency Transitional Powers Act, 1945*.

Duration
of Act.

This section
repealed and
new.
1947-48, c. 5,
s. 1.
Proviso.

7. Subject as hereinafter provided, this Act shall expire on the sixtieth day after Parliament first meets during the year one thousand nine hundred and forty-nine or on the thirty-first day of March, one thousand nine hundred and forty-nine, whichever date is the earlier: Provided that, if at any time while this Act is in force, Addresses are presented to the Governor General by the Senate and House of Commons, respectively, praying that this Act should be continued in force for a further period, not in any case exceeding one year, from the time at which it would otherwise expire and the Governor in Council so orders, this Act shall continue in force for that further period.
(²¹⁷)

Orders and
regulations.

R.S., c. 1.

8. (1) All orders and regulations continued in force by or made under the authority of this Act shall for the purposes of the *Interpretation Act* be deemed to be regulations.

Effect of
expiry.

(2) Section nineteen of the *Interpretation Act* shall apply upon the expiry of this Act as if this Act had then been repealed.

(NOTE:—The Schedule of Orders and Regulations of the Governor in Council referred to in section will be found in the Act in the volume of the statutes of Canada, 1947. It is left out here to save space.)

(²¹⁷) Section seven repealed and re-enacted by section 1 of chapter 5 of the statutes of 1947-48 reads as follows:—

“7. Subject as hereinafter provided, this Act shall expire on the thirty-first day of December, one thousand nine hundred and forty-seven, if Parliament meets during November or December, one thousand nine hundred and forty-seven, but if Parliament does not so meet it shall expire on the sixtieth day after Parliament first meets during the year one thousand nine hundred and forty-eight or on the thirty-first day of March, one thousand nine hundred and forty-eight, whichever date is the earlier: Provided that, if at any time while this Act is in force, addresses are presented to the Governor General by the Senate and House of Commons, respectively, praying that this Act should be continued in force for a further period, not in any case exceeding one year, from the time at which it would otherwise expire and the Governor in Council so orders, this Act shall continue in force for that further period.”

THE FOREIGN ENLISTMENT ACT, 1937.

1 GEORGE VI, CHAPTER 32.

An Act respecting Foreign Enlistment.⁽²¹⁸⁾

[Assented to 10th April, 1937.]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as *The Foreign Enlistment Act*, Short title. 1937.

2. In this Act, and in any regulation or order made here- Definitions. under, unless the context otherwise requires:—

- (a) "Within Canada" includes Canadian waters as defined for the purposes of the *Customs Act*; "Within Canada". R.S. c. 42.
- (b) "Armed forces" includes military, naval and air forces or services, combatant or non-combatant, but shall not include surgical, medical, nursing and other services engaged solely in humanitarian work and which are under the control or supervision of the Canadian Red Cross or other recognized Canadian humanitarian society; "Armed forces".
- (c) "Conveyance" includes ships, vessels, aircraft, trains, and motor and other vehicles; "Conveyance".
- (d) "Illegally enlisted person" means a person who has accepted or agreed to accept any commission or engagement, or who is about to quit Canada with intent to accept any commission or engagement, or who has been induced to go on board a conveyance under a misapprehension or false representation of the service in which such person is to be engaged with the intention or in order that such person may accept or agree to accept any commission or engagement contrary to the provisions of this Act; "Illegally enlisted person".
- (e) "Equips" in relation to a ship, includes the furnishing of anything which is used for the purpose of fitting "Equips".

⁽²¹⁸⁾ This Act is largely based upon The Foreign Enlistment Act, 1870 (33 & 34 Vic. c. 90), an Act of the Parliament of the United Kingdom which in terms extends to Canada. There are four principal points of difference:—

(1) The Foreign Enlistment Act, 1870, controls foreign enlistment at the sea-ports, by making it unlawful for ships knowingly to take on board illegally enlisted persons. This Act is extended to cover land and air transport.

(2) This Act omits a number of administrative and procedural provisions and substitutes a power vested in the Governor in Council to make regulations in respect of these matters.

(3) The Act also clarifies the position arising from civil conflict.

(4) The Act further makes provision for recruiting in times of peace.

or adapting the ship for the sea, or for naval service, and all words relating to equipment shall be construed accordingly;

“Foreign State”.

(f) “Foreign State” including any foreign prince, colony, province or part of any province or people, or any person or persons exercising or assuming to exercise the powers of government in or over any foreign country, colony, province, or part of any province or people.

Offence to enlist with a foreign state at war with a friendly state.

3. If any person, being a Canadian National, within or without Canada, voluntarily accepts or agrees to accept any commission or engagement in the armed forces of any foreign state at war with any friendly foreign state, or, whether a Canadian National or not, within Canada, induces any other person to accept or agree to accept any commission or engagement in any such armed forces, such persons shall be guilty of an offence under this Act.

Offers inducement.

Offence to quit or intend to quit Canada to enlist.

4. If any person, being a Canadian National, quits or goes on board any conveyance with a view of quitting Canada with intent to accept any commission or engagement in the armed forces of any foreign state at war with any friendly foreign state, or, whether a Canadian National or not, within Canada, induces any other person to quit or go on board any conveyance with a view of quitting Canada, with a like intent, such person shall be guilty of an offence under this Act.

Offers inducement.

Offence to induce a person to enlist and quit Canada by misrepresentation.

5. If any person induces any other person to quit Canada, or to go on board any conveyance within Canada under a misrepresentation or false representation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the armed forces of any foreign state at war with a friendly state, such person shall be guilty of an offence under this Act.

Owner of conveyance may be guilty of an offence.

6. (1) If the person having the control or direction of, or being the owner of any conveyance, knowingly either takes on board or engages to take on board or has on board such conveyance, within Canada, any illegally enlisted person, the person having such control or direction of, or being the owner of any such conveyance, shall be guilty of an offence under this Act.

Detaining conveyance.

(2) Such conveyance shall be detained until the trial or conviction of such person or owner and until all fines or penalties imposed on such person or owner have been paid or security approved by the Court having jurisdiction in the matter has been given for the payment thereof.

7. If any person, within Canada, does any of the following acts, that is to say, Offences.

- (a) builds or agrees to build or causes to be built, any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in or by the armed forces of any foreign state at war with any friendly state; or Builds ship.
- (b) issues or delivers any commission for any ship with intent or knowledge or having reasonable cause to believe that the same shall or will be employed in or by the armed forces of any foreign state at war with any friendly state; or Commissions ship.
- (c) equips any ship with intent or knowledge or having reasonable cause to believe that the same shall or will be employed in or by the armed forces of any foreign state at war with any friendly state; or Equips ship.
- (d) despatches or causes or allows to be despatched, any ship, with intent or knowledge or having reasonable cause to believe that the same shall or will be employed in or by the armed forces of any foreign state at war with any friendly state: Despatches ships.

such person shall be guilty of an offence under this Act.

Provided that a person building, causing to be built, or equipping a ship in any of the cases aforesaid, in pursuance of a contract made before the commencement of such war as aforesaid, shall not be deemed to have committed an offence under this Act, if, forthwith, upon a proclamation of neutrality or any other proclamation notifying or bringing into operation the provisions of this Act, he gives notice to the Secretary of State for External Affairs that he is so building, causing to be built, or equipping, such ship, and furnishes such particulars of the contract and of any matters relating to or done, or to be done under the contract, as may be required by the Secretary of State for External Affairs, and, if he give such security and takes and permits to be taken such other measures, as the Secretary of State for External Affairs may prescribe for insuring that such ship shall not be despatched, delivered or removed, or otherwise dealt with, without the permission in writing of the Secretary of State for External Affairs, until the termination of such war as aforesaid. Proviso.

8. When any ship is built by order of or on behalf of any foreign state, when at war with a friendly state, or is delivered to or to the order of such foreign state, or to any person who to the knowledge of the person building is an agent of such foreign state, or is paid for by such foreign state or such agent, and is employed in or by the armed forces of such foreign state, such ship shall, until the contrary is proved, be deemed to have been built with a view to being so employed, and the burden shall lie on the builder of such ship of proving that he did not know that the ship was intended to be so employed in or by the armed forces of such foreign state. Ships employed by armed forces of foreign state deemed to have been built for such purpose.

Arming or
equipping
ships for
foreign state
at war.

Offence.

9. If any person within Canada, by any addition to or substitution in the armament or equipment, increases or augments, or procures to be increased or augmented, or is knowingly concerned in increasing or augmenting the warlike force of any ship, which at the time of its being within Canada was a ship in or of the armed forces of any foreign state at war with any friendly state, such person shall be guilty of an offence under this Act.

Outfitting
expedition
against
friendly state
Offence.

10. If any person within Canada, prepares or fits out any military, naval or air expedition, to proceed against the dominions of any friendly state, such person shall be guilty of an offence against this Act.⁽²¹⁹⁾

Recruiting.

Offence.
Proviso.
Not
applicable
consular or
diplomatic
officers.

11. If any person, within Canada, recruits or otherwise induces any person or body of persons to enlist or to accept any commission or engagement in the armed forces of any foreign state or other armed forces operating in such state, such person shall be guilty of an offence under this Act: Provided, however, that the provisions of this section shall not apply to the action of foreign consular or diplomatic officers or agents in enlisting persons who are nationals of the countries which they represent, and who are not Canadian Nationals, in conformity with the regulations of the Governor in Council.

Prize of war.

Application
to Court
for restoration
of prize.

12. If any ship, goods, or merchandise, captured as prize of war within Canada in violation of Canadian neutrality, or captured by any ship which may have been built, equipped, commissioned or despatched, or the force of which may have been augmented, contrary to the provisions of this Act, are brought within Canada by the captor, or by any agent of the captor, or by any person having come into possession thereof with a knowledge that the same was prize of war so captured as aforesaid, it shall be lawful for the original owner of such prize or his agent, or for any person authorized in that behalf by the government of the Foreign State to which such owner belongs, or in which the ship captured as aforesaid may have been duly registered, to make application to the Exchequer Court of Canada for seizure and detention of such prize, and the Court shall, on due proof of the facts, order such prize to be restored.

Execution of
Court Order.

Appeal.

13. Every order referred to in the preceding section shall be executed and carried into effect in the same manner, and subject to the same right of appeal, as in case of any order made in the exercise of the ordinary jurisdiction of such court; and in the meantime, and until a final order has been made, on such application the court shall have power to make all

⁽²¹⁹⁾ Section ten makes it unlawful to prepare or fit out an expedition. It corresponds generally to section 11 of The Foreign Enlistment Act 1870, but is extended to air expeditions, as well as naval and military. This, together with the three preceding sections, is required to make it possible to perform the obligations incidental to neutrality. These sections are in accordance with International Law and practice. The extension to air expeditions in section 10 is essential to meet modern conditions. No similar extension has been included in the preceding sections by reason of the fact that problems arising from aircraft are adequately dealt with by other legislative provisions.

such provisional and other orders as to the care or custody of such captured ship, goods, or merchandise, and (if the same be of perishable nature, or incurring risk of deterioration) for the sale thereof, and with respect to the deposit or investment of the proceeds of any such sale, as may be made by such court in the exercise of its ordinary jurisdiction.

14. Any person, who is guilty of an offence against this Act shall be deemed to be guilty of an indictable offence, and shall be punishable by fine not exceeding two thousand dollars, or by imprisonment for a term not exceeding two years, with or without hard labour, or by both fine and imprisonment; but such offence may, instead of being prosecuted as an indictable offence, be prosecuted summarily in manner provided by Part XV of the *Criminal Code*, and if so prosecuted, such offence shall be punishable by fine not exceeding five hundred dollars, or by imprisonment not exceeding twelve months, with or without hard labour, or by both fine and imprisonment.

Penalties.

Indictable offence.

R.S. c. 36.

Summary conviction.

15. (1) Any ship in respect of which an offence under section seven of this Act has been committed and the equipment thereof, shall be forfeited to His Majesty.

Offending ship forfeited to His Majesty.

(2) Any conveyance and the equipment thereof and all arms, ammunition and implements of war used in or forming part of an expedition in respect of which an offence has been committed under the provisions of section ten of this Act, shall be forfeited to His Majesty.

Conveyance, arms, etc., part of expedition forfeited.

16. For the purpose of giving jurisdiction in criminal proceedings under this Act, every offence shall be deemed to have been committed, every cause or complaint to have arisen either in the place in which the same was committed or arose, or in any place in which the offender or person complained against may be.

Locus of jurisdiction.

17. Subject to the provisions of this Act, criminal proceedings arising hereunder shall be subject to and governed by the *Criminal Code*.

Proceedings governed by Code.

R.S. c. 36.

18. All proceedings for forfeiture of conveyances, goods or merchandise, under the provisions of this Act, may be taken in the Exchequer Court of Canada, or in any court of competent jurisdiction.

Process for forfeiture.

Courts with jurisdiction.

19. (1) The Governor in Council may, from time to time, by order or regulation, provide for any or all of the following matters:—

Orders in Council. Regulations.

- (a) the application of the provisions of this Act, with necessary modifications, to any case in which there is a state of armed conflict, civil or otherwise, either within a foreign country or between foreign countries;
- (b) the seizure, detention and disposition of conveyances, goods and merchandise;
- (c) the requirement of the consent of an authority or authorities to prosecutions, seizures, detentions and forfeiture proceedings;

- (d) the designation of officers or authorities who may execute any of the provisions of this Act;
- (e) the issue, restriction, cancellation and impounding of passports, whether within Canada or elsewhere, to the extent to which such action is deemed by him to be necessary or expedient for carrying out the general purposes of this Act.

Orders and regulations to be published in Gazette.

(2) Such orders and regulations shall be published in the *Canada Gazette*, and shall take effect from the date of such publication or from the date specified for such purpose in such order or regulation, and shall have the same force and effect as if enacted herein.⁽²²⁰⁾

Repeal.

20. The Act of the Parliament of the United Kingdom, chapter ninety of the Statutes of 1870 (33 & 34 Victoria) the short title of which is The Foreign Enlistment Act 1870, is hereby repealed in so far as it is part of the law of Canada.⁽²²¹⁾

⁽²²⁰⁾

- (a) This section enables the Governor in Council to invoke the provisions of the Act with necessary modifications in cases of civil conflict, and to cases in which there is a state of armed conflict in existence, although there might be some doubt as to whether such armed conflict constituted war in the technical sense.
- (c) The Foreign Enlistment Act 1870, requires the sanction of the Secretary of State to the institution of forfeiture proceedings. The present position enables the Governor in Council to require consent of an authority or authorities to prosecutions, seizure, detentions, and forfeiture proceedings. It will also be observed that paragraph (d) enables the Governor in Council to designate the officers or authorities who may execute any of the provisions of the Act.
- (e) This provision is entirely new. It enables the control of passports in cases of illegal enlistment.

⁽²²¹⁾ This section repeals The Foreign Enlistment Act 1870, in so far as it is part of the law of Canada. The power to do so is conferred by section two of the Statute of Westminster.

THE VISITING FORCES (BRITISH COMMON-
WEALTH) ACT, 1933.

23-24 GEORGE V, CHAPTER 21.

An Act to make provision with respect to Forces of His Majesty from other parts of the British Commonwealth or from a colony when visiting the Dominion of Canada; and with respect to the exercise of command and discipline when Forces of His Majesty from different parts of the Commonwealth are serving together; and with respect to the attachment of members of one such force to another such force, and with respect to deserters from such forces.⁽²²²⁾

[Assented to 12th April, 1933.]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as *The Visiting Forces (British Commonwealth) Act, 1933.* Short title.

2. (1) In this Act:—
- | | |
|---|-------------------------------------|
| (a) "The Commonwealth" means the British Commonwealth of Nations; | Definitions.
"The Commonwealth." |
| (b) "Colony" includes Aden and any territory which is under His Majesty's protection; | "Colony." |
| (c) "Court" includes a service Court of Inquiry, and any officer of a visiting force who is empowered by the law of that part of the Commonwealth to which the force belongs to review the proceedings of a service court, or to investigate charges, or himself to dispose of charges, and the expression "sentence" shall be construed accordingly; | "Court."
"Sentence." |
| (d) "Home forces" mean the naval, military and air forces of His Majesty raised in Canada; and | "Home forces." |
| (e) "home force" includes any body, contingent, or detachment of any of the home forces, wherever serving; | "Home force." |
| (f) "Internal administration" in relation to any visiting force includes the administration of the property of a deceased member of the force; and | Internal administration. |

⁽²²²⁾ This Act makes provision for the discipline and internal administration of visiting forces from other parts of the British Commonwealth when present in Canada with consent of the Government of Canada. (For Visiting Forces from the United States see the Act following immediately in this volume.) Prior to the enactment of the Statute of Westminster, visiting forces were enabled to maintain discipline by virtue of the provisions of the *Army Act*, which extended to Canada. The *Army* and *Air Force Acts* have of themselves no force, but require to be brought into operation annually by another Act of the Parliament of the United Kingdom styled "*The Army and Air Force Annual Act*," which provides for the basic Acts continuing in force for the year to which the Annual Act relates. Any such Annual Act, however, passed subsequent to the coming into force of the Statute of Westminster no longer has the force of law in Canada, and it is necessary to base the discipline and internal administration of such Forces upon Canadian Legislation. For the same reason it is necessary to provide for the relations of visiting forces to the civil power and to civilians, for deserters, for attachment of personnel and mutual powers of command, and also to provide temporary measures for the continuance of existing arrangements with regard to naval discipline and co-operation in naval matters.

"Member."

(g) "Member" in relation to a visiting force includes any person who is by the law of that part of the Commonwealth to which the force belongs subject to the naval, military or air force law thereof, and who, being a member of another force, is attached to the visiting force, or, being a civilian employed in connection with the visiting force, entered into his engagement outside of Canada;

"Visiting force."

(h) "Visiting force" means any body, contingent or detachment of the naval, military and air forces of His Majesty raised in the United Kingdom, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State, or Newfoundland, which is, with the consent of His Majesty's Government in Canada, lawfully present in Canada;

"Forces."

(i) "Forces" includes reserve and auxiliary forces.

Order in Council.

(2) An Order in Council under this Act may be revoked or varied by a subsequent Order in Council.

Discipline and internal administration of visiting forces.

3. (1) When a visiting force is present in Canada it shall be lawful for the naval, military and air force courts and authorities (in this Act referred to as the "service courts" and "service authorities") of that part of the Commonwealth to which the Force belongs, to exercise within Canada in relation to members of such Force in matters concerning discipline and in matters concerning the internal administration of such Force all such powers as are conferred upon them by the law of that part of the Commonwealth.⁽²²³⁾

Privileges and immunities of service Court.

(2) The members of any such service court as aforesaid exercising jurisdiction by virtue of this Act, and witnesses appearing before any such court, shall enjoy the like immunities and

The enactment of legislation by all the members of the Commonwealth for this general purposes had been recommended by the Conference on the Operation of Dominion Legislation, 1929, in Paragraph 44 of the Report.

The matter had also been considered by the Imperial Conference of 1930, and the following statement is set forth at pp. 25 and 26 of the Summary of Proceedings:—

"(f) Defence Questions.

"(i) Discipline of the Armed Forces.

"In the very short time at the disposal of the Conference, it was impossible to do more than examine some aspects of the practical problems which will be involved in the carrying out of the recommendations contained in paragraph 44 of the Report of the Conference on the Operation of Dominion Legislation.

"It is assumed that all Governments will desire to take such action as may be necessary to secure (1) that the military discipline of any of the armed forces of the Commonwealth when present, by consent, within territory of another, rests upon a statutory basis, and (2) that there shall be no period of time during which the legal basis of military discipline could on any ground be impeached.

"The methods by which the above two objects can best be attained must necessarily be a matter for the Governments themselves.

"As the action to be taken to give effect to the recommendations contained in paragraph 44 of the Report of the Conference on the Operation of Dominion Legislation is likely to take some time, it was agreed that all the Governments concerned will take such steps as may be necessary to provide against possible difficulties during that period."

⁽²²³⁾ Section three provides for the discipline and internal administration of visiting forces. An examination of the definition of "Visiting Forces" in the interpretation section will show that it is restricted to forces from other parts of the British Commonwealth, lawfully present in Canada with the consent of the Government of Canada. The effect of this section is to give such visiting forces the customary extra-territorial immunities with regard to internal discipline and administration.

privileges as are enjoyed by a service court exercising jurisdiction by virtue of the laws of Canada and by witnesses appearing before such a court.

(3) Where any sentence has, whether within or without Canada, been passed upon a member of a visiting force by a service court of that part of the Commonwealth to which the force belongs, then for the purposes of any legal proceedings within Canada the court shall be deemed to have been properly constituted, and its proceedings shall be deemed to have been regularly conducted, and the sentence shall be deemed to be within the jurisdiction of the court and in accordance with the law of that part of the Commonwealth, and if executed according to the tenor thereof shall be deemed to have been lawfully executed, and any member of a visiting force who is detained in custody in pursuance of any such sentence, or pending the determination by such a service court as aforesaid of a charge brought against him, shall for the purposes of any such proceedings as aforesaid be deemed to be in lawful custody.

Legality of sentence, constitution of court, and proceedings.

For the purposes of any such proceedings as aforesaid a certificate under the hand of the officer commanding a visiting force that a member of that force is being detained for either of the causes aforesaid shall be conclusive evidence of the cause of his detention, but not of his being such a member, and a certificate under the hand of such an officer that the persons specified in the certificate sat as a service court of that part of the Commonwealth to which the force belongs shall be conclusive evidence of that fact.

Certificates as evidence.

(4) No proceedings in respect of the pay, terms of service or discharge of a member of a visiting force shall be entertained by any court of Canada.

Proceedings not to be questioned.

(5) For the purpose of enabling such service courts and such service authorities as aforesaid to exercise more effectively the powers conferred upon them by this section, the Minister of National Defence, if so requested by the officer commanding a visiting force or by the Government of that part of the Commonwealth to which the force belongs, may from time to time by general or special orders to any home force direct the members thereof to arrest members of the visiting force alleged to have been guilty of offences against the law of that part of the Commonwealth and to hand over any person so arrested to the appropriate authorities of the visiting force.

Power of Minister to order arrest, if so requested.

4. (1) The Governor in Council may authorize any Government Department, Minister of the Crown, or other person in Canada, to perform, at the request of such authority or officer as may be specified in the order, but subject to such limitations as may be so specified, any function in relation to a visiting force and members thereof which that Department, Minister or person performs or could perform in relation to a home force of like nature to the visiting force, or in relation to members of such a force and, for the purpose of the exercise of any such function, any power exercisable by virtue of any enactment by the Minister, Department or person in relation to a home force or members thereof shall be exercisable by him or them in relation to the visiting forces and members thereof:

Powers as to home forces may upon request be exercised as to visiting force.

Proviso.

Provided that nothing in this subsection shall authorize any interference in matters relating to discipline or to the internal administration of the force.

Temporary detention.

Imprisonment.

Orders as to treatment, release, etc.

(2) If the Governor in Council so provides, members of a visiting force if sentenced by a service court of that part of the Commonwealth to which the force belongs to penal servitude, imprisonment or detention may, under the authority of the Minister of National Defence, given at the request of the officer commanding the visiting force, be temporarily detained in custody in prisons or detention barracks in Canada, and if so sentenced to imprisonment may, under the like authority, be imprisoned during the whole or any part of the term of their sentences in prisons in Canada, and the Governor in Council may by the same or a subsequent order make provision with respect to any of the following matters, that is to say, the reception of such persons from, and their return to, the service authorities concerned, their treatment while in such custody, or while so imprisoned, the circumstances under which they are to be released, and the manner in which they are to be dealt with in the event of their unsoundness of mind while in such custody, or while so imprisoned.

Costs.

Any costs incurred in the maintenance and return of, or otherwise in connection with, any person dealt with in accordance with the provisions of this subsection shall be defrayed in such manner as may, with the consent of the Minister of Finance, be agreed between the Minister of National Defence and the Government of that part of the Commonwealth which is concerned.

Provisions applicable to visiting force same as apply to a home force of a like nature.

R.S., c. 132.
R.S., c. 139.

(3) Subject as hereinafter provided, any enactment (whether contained in the *Militia Act*, the *Naval Service Act*, or any other statute) which—

- (a) exempts, or provides for the exemption of, any vessel, vehicle, aircraft, machine or apparatus of, or employed for the purposes of the home forces or any of them from the operation of any enactment; or
- (b) in virtue of a connection with the home forces or any of them, confers a privilege or immunity on any persons; or
- (c) in virtue of such a connection, excepts any property, trade or business, in whole or in part, from the operation of any enactment, or from any tax, rate, imposition, toll or charge; or
- (d) imposes upon any person or undertaking obligations in relation to the home forces, or any of them, or any member or service court thereof; or
- (e) penalizes misconduct by any person in relation to the home forces or any of them, or any member or service court thereof,

shall, with any necessary modifications apply in relation to a visiting force as it would apply in relation to a home force of a like nature to the visiting force;

Proviso.

Provided that the Governor in Council may direct that any such enactment either shall not apply, or shall apply with

such exceptions and subject to such adaptations or modifications as may be specified.

(4) An order in council under this section may apply either generally, or in relation to visiting forces from any particular part of the Commonwealth, or in relation to any particular visiting force, or in relation to any particular place.⁽²²⁴⁾

Application
of order
in council.

5. (1) The forces to which this section applies are such of the naval, military and air forces of His Majesty raised in the United Kingdom, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State, or Newfoundland, as the Governor in Council may direct.

Application
of section.

(2) Subject to the provisions of this section, paragraphs (1) to (4) of section one hundred and fifty-four of the *Army Act* (which relates to the apprehension of deserters and absentees without leave) shall, to the extent to which by the *Militia Act* it is given force and effect as if it had been enacted by the Parliament of Canada for the government of the Militia within Canada, apply in relation to a deserter or absentee without leave from any force to which this section applies (including any member of a reserve or auxiliary force who, having failed to obey a notice calling upon him to appear at any place for service, is by the law of that part of the Commonwealth to which the force belongs liable to the same punishment as a deserter, or to the same punishment as an absentee without leave), as they apply in relation to a deserter, or absentee without leave, from a home military force:

Deserters
and
absentees.

Provided that any reference in the said paragraphs to military custody shall be construed as including a reference to naval or air force custody.

Proviso.

(3) No person who is alleged to be a deserter from any such force as aforesaid shall be apprehended or dealt with under this section except in compliance with a specific request from the Government of that part of the Commonwealth to which the force belongs, and a person so dealt with shall be handed over to the authorities of that part of the Commonwealth at such place on the coast or frontier of Canada as may be agreed:

Apprehen-
sion on
request.

Provided that a person who is alleged to be a deserter or absentee without leave from a visiting force may also be apprehended and dealt with under this section in compliance with a request, whether specific or general, from the officer commanding that force, and shall, if that force is still present in Canada, be handed over to the officer commanding that force at the place where the force is stationed.

Proviso.

⁽²²⁴⁾ This section deals with the relations of visiting forces to the civil power and to civilians. The first subsection enables the Governor in Council to authorize the furnishing of the aid to the Civil power to visiting forces. The second subsection gives legal authority for detention and custody of prisoners. The third subsection entitles, in so far as the Governor in Council directs, the visiting forces to exemption and immunities similar to those enjoyed by Canadian forces, and penalizes offences against visiting forces.

Considering the entire section, its effect is to place visiting forces in substantially the same legal position that they were in prior to the enactment of the Statute of Westminster, the foundation of the position being Canadian legislation, instead of the operation of the *Army Act*.

(4) For the purposes of any proceedings under this section:—

Certificate of Minister evidence of request.

- (i) a document purporting to be a certificate under the hand of the Secretary of State for External Affairs or the Minister of National Defence, that a request has been made under subsection (3) of this section, shall be admissible without proof as evidence of such a request;

Certificate of commanding officer evidence of desertion.

- (ii) a document purporting to be a certificate under the hand of the officer commanding a unit or detachment of any force to which this section applies that a named and described person was at the date of the certificate a deserter, or absentee without leave, from that force shall be admissible without proof as evidence of the facts so certified.⁽²²⁵⁾

Application of section.

6. (1) The forces, other than home forces, to which this section applies are the naval, military and air forces of His Majesty raised in the United Kingdom, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State, or Newfoundland.

(2) The Governor in Council,

Temporary attachments to a home force.

- (i) may attach temporarily to a home force any member of another force to which this section applies who is placed at his disposal for the purpose by the service authorities of that part of the Commonwealth to which the other force belongs;

⁽²²⁵⁾ This section is not confined to visiting forces, but it makes a general provision with regard to deserters from forces raised in other parts of the British Commonwealth. Together with corresponding sections which are being enacted in the United Kingdom and in other parts of the British Commonwealth, it affords a statutory basis for the continuance of the co-operation with regard to deserters that was formerly secured by the general application of the *Army Act* and other defence legislation of the Parliament of the United Kingdom.

Subsection 2 of this section refers to paragraphs (1) to (4) of section 154 of the *Army Act*. These are as follows:—

(1) Upon reasonable suspicion that a person is a deserter or absentee without leave, it shall be lawful for any constable, or if no constable can be immediately met with, then for any officer or soldier or other person, to apprehend such suspected person, and forthwith to bring him before a court of summary jurisdiction:

(2) A justice of the peace, magistrate, or other person having authority to issue a warrant for the apprehension of a person charged with crime may, if satisfied by evidence on oath that a deserter or absentee without leave is or is reasonably suspected to be within his jurisdiction, issue a warrant authorizing such deserter or absentee without leave to be apprehended and brought forthwith before a court of summary jurisdiction:

(3) Where a person is brought before a court of summary jurisdiction charged with being a deserter or absentee without leave under this Act, such court may be with the case in like manner as if such person were brought before the court charged with an indictable offence, or in Scotland an offence:

(4) The court, if satisfied either by evidence on oath or by the confession of such person that he is a deserter or absentee without leave, shall forthwith, as it may seem to the court most expedient with regard to his safe custody, cause him either to be delivered into military custody in such manner as the court may deem most expedient, or until he can be delivered, to be committed to some prison, police station, or other place legally provided for the confinement of persons in custody, for such reasonable time as appears to the court reasonably necessary for the purpose of delivering him into military custody.

- (ii) subject to anything to the contrary in the conditions applicable to his service, may place any member of a home force at the disposal of the service authorities of another part of the Commonwealth for the purpose of being attached temporarily by those authorities to a force to which this section applies belonging to that part of the Commonwealth.

To force of another part of Commonwealth.

(3) Whilst a member of another force is by virtue of this section attached temporarily to a home force, he shall be subject to the law relating to the Naval Service, the Militia, or the Air Force, as the case may be, in like manner as if he were a member of the home force, and shall be treated and have the like powers of command and punishment over members of the home force to which he is attached as if he were a member of that force of relative rank:

Law applicable to member of force attached to home force.

Provided that the Governor in Council may direct that in relation to members of a force of any part of the Commonwealth specified the statutes relating to the home forces shall apply with such exceptions and subject to such adaptations and modifications as may be so specified.

Proviso.

(4) When a home force and another force to which this section applies are serving together, whether alone or not:—

Mutual power of command when forces serving together or in combination.

(a) any member of the other force shall be treated and shall have over members of the home force the like powers of command as if they were a member of the home force of relative rank; and

(b) if the forces are acting in combination, any officer of the other force appointed by His Majesty, or in accordance with regulations made by or by authority of His Majesty, to command the combined force, or any part thereof, shall be treated and shall have over members of the home force the like powers of command and punishment, and may be invested with the like authority to convene, and confirm the findings and sentences of, courts martial as if he were an officer of the home force of relative rank and holding the same command.

(5) For the purposes of this section, forces shall be deemed to be serving together or acting in combination if and only if they are declared to be so serving or so acting by order of the Governor in Council, and the relative rank of members of the home forces and of other forces shall be such as may be prescribed by regulations made by His Majesty.⁽²²⁶⁾

Forces serving together or in combination.

⁽²²⁶⁾ This section deals with the attachment of personnel and mutual powers of command. The co-operation in defence matters which has existed now for many years involves the interchange of officers and men, and it is necessary to enable such officers and men to carry on their duties on the same basis as if they were members of the forces to which they are attached. Subsection (4) deals with combined operations and makes it legally possible to have a single command, subject, of course, to the consent of the Governments of the component forces.

Application
of Act to
mandated
territories,
colonies,
and other
territories.

7. This Act shall, subject to such exceptions, adaptations and modifications as the Governor in Council may direct, apply—

- (a) in relation to any forces and to the officers and members of such forces raised in any territory in respect to which a mandate on behalf of the League of Nations is being exercised by His Majesty's Government in the United Kingdom;
- (b) in relation to any forces and to the officers and members of such forces raised in any territory in respect to which such a mandate is being exercised by His Majesty's Government in a Dominion;
- (c) in relation to any forces and to the officers and members of such forces raised in a colony;
- (d) in relation to any forces and to the officers and members of such forces raised in any territory which is being administered by His Majesty's Government in the United Kingdom or by His Majesty's Government in a Dominion.

Saving for
other en-
actments.

8. So far as regards any naval force and the members of any such force, the provisions of this Act shall be deemed to be in addition to and not in derogation of such of the provisions of any Act of the Parliament of the United Kingdom or of the Parliament of any other part of the Commonwealth as are for the time being applicable to that force and the members thereof.⁽²²⁷⁾

⁽²²⁷⁾ The Army and Air Force Acts being dependent for their force and effect upon *The Army and Air Force Annual Act* passed annually by the Parliament of the United Kingdom, are no longer in themselves, subsequent to the passing of the Statute of Westminster, applicable to Canada. Naval discipline, however, is based upon permanent enactments, the continued operation of which was not affected by the coming into force of the Statute of Westminster. Further, Canadian Naval Forces are still organized on the basis of statutes which invoke the operation of the Naval Discipline Acts, and it has been thought desirable to insure the continuance of the existing position with respect to Naval discipline. It will always be open to the Parliament of Canada to bring naval forces solely within the operation of the first four sections of the Act, upon the enactment of new legislation to provide for their organization, or, at any time, to repeal this section and bring naval forces solely within the operation of the first four sections of the Act, if the present course is found to be inconvenient.

THE VISITING FORCES (UNITED STATES OF AMERICA) ACT.⁽²²⁸⁾

11 GEORGE VI, CHAPTER 47.

An Act to make provision with respect to Forces of the United States of America when visiting Canada and with respect to the exercise of discipline and to the internal administration of such Forces.

[Assented to 27th June, 1947.]

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

- | | |
|---|--|
| <p>1. This Act may be cited as <i>The Visiting Forces (United States of America) Act</i>.</p> | <p>Short title.</p> |
| <p>2. In this Act, unless the context otherwise requires,</p> <p>(a) “home forces” means the naval, military or air forces of His Majesty raised in Canada;</p> <p>(b) “home force” includes any body, contingent or detachment of any of the home forces;</p> <p>(c) “service authorities” means naval, military or air force authorities;</p> <p>(d) “service court” means a naval, military or air force court and includes a service Court of Inquiry, and any officer of a United States force who is empowered by the law of the United States of America to review the proceedings of a service court of the United States of America, or to investigate charges, or himself to dispose of charges, and the expression “sentence” shall be construed accordingly;</p> <p>(e) “United States force” means any body, contingent or detachment of the military, naval or air forces of the United States of America that, with the consent of the Government of Canada, is lawfully present in Canada or on board any of His Majesty’s Canadian ships or aircraft.</p> | <p>Definitions.</p> <p>“home forces.”</p> <p>“home force.”</p> <p>“service authorities.”</p> <p>“service court.”</p> <p>“United States force.”</p> |

⁽²²⁸⁾ See also The Visiting Forces (British Commonwealth) Act, 1933, printed in this volume.

The purpose of the present Act is to make provision for the discipline and internal administration of visiting forces from the United States of America when present in Canada with the consent of the Government of Canada.

The provisions of the *Criminal Code* which are declared not applicable to a member of a United States force by subsection one of section nine read as follows:—

“Unlawful Drilling

“99. The Governor in Council is authorized from time to time to prohibit assemblies, without lawful authority, of persons for the purpose of training or drilling themselves, or of being trained or drilled to the use of arms, or for the purpose of practising military exercises, movements or evolutions, and to prohibit persons when assembled for any other purpose from so training or drilling themselves or being trained or drilled.

(2) Any such prohibition may be general or may apply only to a particular place or district or to assemblies of a particular character, and shall come into operation from the publication in the *Canada Gazette* of a proclamation embodying the terms of such prohibition, and shall continue in force until the like publication of a proclamation issued by the authority of the Governor in Council revoking such prohibition.

Discipline
and internal
adminis-
tration of
United
States
force.

3. Subject to the provisions of this Act, when a United States force is present in Canada or on board any of His Majesty's Canadian ships or aircraft, the service courts and service authorities of the United States of America may exercise within Canada or on board any such ship or aircraft in relation to members of that force all such powers as are conferred upon them by the law of the United States of America.

Jurisdiction
of civil
courts in
Canada not
affected.

4. (1) Nothing in section three of this Act shall affect the jurisdiction of any civil court in Canada to try a member of a United States force for any act or omission constituting an offence against any law in force in Canada whether or not proceedings with respect to such act or omission have been instituted by a United States service authority or before a United States service court.

In case of
subsequent
trial by
civil court.

(2) If a person sentenced by a service court exercising jurisdiction by virtue of section three of this Act to punishment for an offence is afterwards tried by any civil court in Canada in respect of any act or omission that constituted that offence, the civil court shall, in awarding punishment in respect of that act or omission, have regard to any punishment imposed on him by the said sentence.

In case of
previous
trial by
civil court.

(3) A service court shall not have jurisdiction by virtue of section three of this Act to try any person for any act or omission constituting an offence for which he has been acquitted or convicted by any civil court in Canada.

Privileges
and
immunities
of service
court.

5. The members of any service court of the United States of America exercising jurisdiction by virtue of this Act, and witnesses appearing before any such court, shall enjoy the like immunities and privileges as are enjoyed by a service court exercising jurisdiction by virtue of the laws of Canada, and by witnesses appearing before such a court.

(3) Every person is guilty of an indictable offence and liable to two years' imprisonment who, without lawful authority and in contravention of such prohibition or proclamation

- (a) is present at or attends any such assembly for the purpose of training or drilling any other person to the use of arms or the practice of military exercises or evolutions; or
- (b) at any assembly trains or drills any other person to the use of arms or the practice of military exercises or evolutions.

(4) Every one is guilty of an indictable offence and liable to two years' imprisonment, who, without lawful authority, attends, or is present at, any such assembly as in this section mentioned, for the purpose of being, or who at any such assembly is, without lawful authority and in contravention of such prohibition or proclamation, trained or drilled to the use of arms or the practice of military exercises or evolutions."

"114. (1) Every one is guilty of an indictable offence and liable to seven years' imprisonment who makes, or knowingly has in his possession or under his control, any explosive substance under such circumstances as to give rise to a reasonable suspicion that he is not making it, or has it not in his possession or under his control, for a lawful object, unless he can show that he made it or had it in his possession or under his control for a lawful object.

(2) Every one is guilty of an indictable offence and liable to seven years' imprisonment who without lawful excuse has in his possession any bomb, grenade or other device or contrivance made or intended for a similar use or purpose, and such possession shall be *prima facie* evidence of such unlawful possession."

"Offensive Weapons.

"115. Every one is guilty of an indictable offence and liable to five years' imprisonment who has in his custody or possession, or carries any offensive weapon for any purpose dangerous to the public peace."

6. (1) Where any sentence has, whether within or without Canada, been passed upon a member of a United States force by a service court of the United States of America, then for the purposes of any legal proceedings within Canada the court shall be deemed to have been properly constituted, and its proceedings shall be deemed to have been regularly conducted, and the sentence shall be deemed to be within the jurisdiction of the court and in accordance with the law of the United States of America, and if executed according to the tenor thereof shall be deemed to have been lawfully executed, and any member of a United States force who is detained in custody in pursuance of any such sentence, or pending the determination by such a service court as aforesaid of a charge brought against him, shall for the purposes of any such legal proceedings be deemed to be in lawful custody.

Legality of sentence, constitution of court, and proceedings.

(2) For the purposes of any legal proceedings within Canada a certificate under the hand of the officer commanding a United States force that a member of that force is being detained in either of the circumstances described in subsection one of this section shall be conclusive evidence of the cause of his detention, but not of his being such a member, and a certificate under the hand of such an officer that the persons specified in the certificate sat as a service court of the United States of America shall be conclusive evidence of that fact.

Certificates as evidence.

7. For the purpose of enabling the service courts and service authorities of the United States of America to exercise more effectively the powers conferred upon them by this Act, the Minister of National Defence, if so requested by the officer commanding a United States force or by the Government of the United States of America, may from time to time by general or special orders to any home force direct the members thereof to arrest members of the United States force alleged to have been guilty of offences against the law of the United States of America and to hand over any person so arrested to the appropriate authorities of the United States force.

Power of Minister to order arrest, if so requested.

"116. If two or more persons openly carry offensive weapons in a public place in such manner and under such circumstances as are calculated to create terror and alarm, each of such persons is liable, on summary conviction before two justices, to a penalty not exceeding forty dollars and not less than ten dollars, and in default of payment to imprisonment for any term not exceeding thirty days."

"118. Every one is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years who, not having a permit in Form 76,—

(a) has upon his person, elsewhere than in his own dwelling house, shop, warehouse, counting-house, or premises, a pistol, revolver, or other firearm, capable of being concealed upon the person,

or who not having such permit,

(b) is carrying in any vehicle under his control, or of which he is an occupant, a pistol, revolver, or other firearm capable of being concealed upon the person,

or who, not having such permit and notwithstanding any other provisions contained in this Act,

(c) has in his possession a sawed-off shotgun or rifle having a barrel of less than twenty inches in length."

"119. (1) Every one is guilty of an offence and liable, on summary conviction to a penalty not exceeding one hundred dollars and costs or to imprisonment for three months, or to both fine and costs and imprisonment, who,

(a) not having a permit in Form 76A, has upon his person elsewhere than in his own dwelling house, shop, warehouse, counting-house or premises, or is carrying concealed any offensive weapon that may be concealed upon the person other than a pistol, revolver or other firearm;

Temporary
detention.

8. (1) Any member of a United States force, if sentenced by a service court of the United States of America to penal servitude, imprisonment or detention may, under the authority of the Minister of National Defence, given at the request of the officer commanding the United States force, be temporarily detained in custody in a detention barrack in Canada.

Imprison-
ment,
treatment
while in
custody
and release.

(2) Where a member of a United States force is subject to detention in a detention barrack in Canada, pursuant to subsection one of this section, the provisions of any enactment in relation to the reception of prisoners from and their return to the service authorities of the home forces, their treatment while in custody in such detention barrack, and the circumstances in which they are to be released, shall, with any necessary modification, apply in relation to the member of the United States force in like manner as they apply in relation to members of a home force.

"Enact-
ment"
defined.

(3) In subsection two of this section the expression "enactment" includes the King's Regulations for the Government of His Majesty's Canadian Naval Service, King's Regulations and Orders for The Canadian Army, King's Regulations for the Royal Canadian Air Force, and any rules, regulations and orders made under any enactment.

Certain
provisions
of Criminal
Code, R.S.,
c. 36, not
applicable.

9. (1) Nothing in sections ninety-nine, one hundred and fourteen to one hundred and sixteen, inclusive, and one hundred and eighteen to one hundred and twenty-one A, inclusive, of the *Criminal Code* shall apply to a member of a United States force acting in the course of his duty.

Lawful
to carry
firearms,
etc.

(2) It shall be lawful for a member of a United States force, acting in the course of his duty, to possess and carry explosives, ammunition and firearms.

Coming
into force.

10. This Act shall be deemed to have come into force on the first day of April, one thousand nine hundred and forty-seven.

-
- (b) being an alien, has in his possession any pistol, revolver, shot gun, rifle or other such firearm or any ammunition for any such firearm without having a permit in Form 76a: Provided however that any *bona fide* sportsman and hunter shall be permitted to enter or pass through Canada having in his possession any shot gun, rifle or other such firearm, or any ammunition therefor, on condition that he pass continuously through and out of Canada, or if not that he apply for a permit in Form 76a without undue delay after entering Canada. For the purpose of this paragraph, the burden of proof that the accused is not an alien shall be upon him;
 - (c) not having a permit in Form 76c sells or offers for sale any pistol or revolver;
 - (d) sells any pistol, revolver or other offensive weapon that may be concealed upon the person, or without lawful excuse gives or lends any pistol, revolver or other weapon as aforesaid, to any one not being the holder of an appropriate permit, and if such permit is one to purchase does not acquire and retain such permit;
 - (e) upon making a sale or repair of any offensive weapon for which a permit is required, neglects to keep a record of such sale or repair, the date thereof, the name of the purchaser, such sufficient description of the offensive weapon sold or repaired as may be necessary to identify it, the date and place of issue of the permit and the name of the issuer of the permit, or neglects to send a duplicate of such record by registered mail to the person who issued such permit, or neglects to endorse upon such permit the date and place of sale, the said description of the weapon and the name of the vendor or of the person repairing;
 - (f) being authorized to issue a permit, issues it without keeping a duplicate thereof as a record;
 - (g) issues a permit without lawful authority;

- (h) not having a permit in Form 76D buys any pistols or revolvers for resale, or having such permit neglects to keep a record of any purchase, the date thereof, such sufficient description of the pistols or revolvers purchased as may be necessary to identify them, or neglects to send a duplicate of such record by registered mail to the person who issued the permit in Form 76D;
- (i) alters, defaces or removes any manufacturer's serial number on or from any pistol, revolver or other firearm capable of being concealed upon the person.

(2) Every one is guilty of an offence and liable upon summary conviction to a fine not exceeding one hundred dollars or to imprisonment for any term not exceeding sixty days, or to both fine and imprisonment, who without authority from the Minister of National Defence carries or discharges any firearm upon any property or premises under the control or management of the said Minister."

"120. (1) The Commissioner of the Royal Canadian Mounted Police or any officer thereof duly authorized by the Commissioner, or any person authorized by the Attorney General of any province, may issue a permit in Form 76 to any person upon being satisfied that such person requires a pistol or revolver for the protection of life or property, or for use in connection with his profession or occupation, or for target practice in a regularly organized shooting club approved by the Attorney General of the province in which such club is organized.

(2) The Commissioner of the Royal Canadian Mounted Police or any officer thereof duly authorized by him, or any person authorized by the Attorney General of any province, may, upon sufficient cause being shown, issue a permit in Form 76A, 76B, 76C, 76D, 76E or 76F to any applicant therefor as to whose discretion and good character he is satisfied.

(3) Any permit issued hereunder shall remain in force only during the calendar year for which it is issued and at the end of such calendar year shall lapse and be null and void.

(4) Upon the trial of an offence under sections one hundred and eighteen and one hundred and nineteen the onus shall be upon the accused person to prove that he has the permit required thereby and such permit shall be *prima facie* evidence of its contents and of the signature and official character of the person by whom it purports to be granted."

"121. Whenever the Governor in Council deems it expedient in the public interest he may by proclamation

- (a) suspend the operation of any of the provisions of sections 118, 119 and 120 in any part of Canada and for such period as he deems fit;
- (b) forbid for such period as he deems fit any person except such persons or classes of persons as may be expressly exempted by the terms of the proclamation, from having in possession in such portion of Canada as may be named in the proclamation, any offensive weapon or any device or contrivance for muffling the report of any firearm, and upon the issue of such proclamation, every one is guilty of an offence and liable on summary conviction to a penalty not exceeding one hundred dollars and costs, or to imprisonment for three months, or to both fine and costs and imprisonment, who not being exempted from the operation of the proclamation by the terms thereof has in his possession any offensive weapon, device or contrivance contrary to the said proclamation."

"121A. (1) Notwithstanding anything contained in any section of this Act relating to the issue of licences for pistols and revolvers, every one is guilty of an offence and liable on summary conviction to a fine not exceeding fifty dollars or to imprisonment for a period not exceeding thirty days, or to both fine and imprisonment, who has in his possession a pistol or revolver without having registered the same as hereinafter provided.

(2) The Commissioner of the Royal Canadian Mounted Police or any officer duly authorized by him, or any person authorized by the Attorney General of any province, shall register all revolvers and pistols in respect of which application for registration is made and shall thereupon record the name, address and occupation of the person making the application, the name of the owner, the use, if any, to which the revolver or pistol is intended to be put and a full description of such revolver or pistol.

(3) In addition to the registration provided for in subsection two of this section there shall be, similarly, a general registration of all revolvers and pistols during the period between the first day of March and the first day of July in 1945, and during the same period every five years thereafter."

THE OFFICIAL SECRETS ACT.

3 GEORGE VI, CHAPTER 49.

An Act respecting Official Secrets.⁽²²⁹⁾

[Assented to 3rd June, 1939.]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

SHORT TITLE.

Short title. **1.** This Act may be cited as *The Official Secrets Act*.

INTERPRETATION.

Interpreta-
tion.

Reference
to His
Majesty.

Communi-
cating or
receiving.

2. In this Act, unless the context otherwise requires,
(a) Any reference to His Majesty means His Majesty
in right of Canada or of any province;

(b) Expressions referring to communicating or receiving
include any communicating or receiving, whether in
whole or in part, and whether the sketch, plan, model,
article, note, document or information itself or the
substance, effect, or description thereof only be com-
municated or received; expressions referring to obtain-
ing or retaining any sketch, plan, model, article, note,
or document, include the copying or causing to be
copied the whole or any part of any sketch, plan,
model, article, note, or document; and expressions
referring to the communication of any sketch, plan,
model, article, note or document include the transfer
or transmission of the sketch, plan, model, article,
note or document;

"Attorney
General".

(c) The expression "Attorney General" means the Attorney
General of Canada;

"document".

(d) The expression "document" includes part of a docu-
ment;

"model".

(e) The expression "model" includes design, pattern and
specimen;

⁽²²⁹⁾ The only reason why this Act is placed among constitutional enactments is that its adoption in Parliament was rendered possible by the enactment of the Statute of Westminster, specially by section two thereof.

Previously the law in force in Canada dealing with official secrets was to be found in the Official Secrets Act (Imperial, 1911, 1 and 2 Geo. V, chapter 28, and in sections 85 and 86 of the *Criminal Code*. The Imperial Act of 1911 was made applicable in terms to Canada. It is repealed by section 15 of the Canadian Act in so far as it is part of the law of Canada.

In 1920 this Act was amended and other provisions were enacted by the Parliament of Great Britain in the Official Secrets Act, 1920 (Imperial), 10 and 11 Geo. V, Chapter 75. This latter Act was not made applicable to Canada.

The law in force in Canada did not, therefore, adequately deal with the subject of espionage.

The above Act is in the main a consolidation of the English Acts of 1911 and 1920.

- (f) The expression "munitions of war" means arms, ammunition, implements or munitions of war, military, naval or air stores, or any articles deemed capable of being converted thereinto, or made useful in the production thereof; "munitions of war".
- (g) The expression "offence under this Act" includes any act, omission, or other thing which is punishable hereunder; "offence under this Act".
- (h) The expression "office under His Majesty" means any office or employment in or under any department of the Government of Canada or of any province; "office under His Majesty".
- (i) The expression "prohibited place" means
- (i) any work of defence belonging to or occupied or used by or on behalf of His Majesty including arsenals, naval, military or air force establishments, or stations, factories, dockyards, mines, minefields, camps, ships, aircraft, telegraph, telephone, wireless or signal stations or offices, and places used for the purpose of building, repairing, making or storing any munitions of war or any sketches, plans, models, or documents relating thereto, or for the purpose of getting any metals, oil or minerals of use in time of war;
 - (ii) any place not belonging to His Majesty where any munitions of war or any sketches, models, plans or documents relating thereto, are being made, repaired, gotten or stored under contract with, or with any person on behalf of, His Majesty, or otherwise on behalf of His Majesty; and
 - (iii) any place which is for the time being declared by order of the Governor in Council to be a prohibited place on the ground that information with respect thereto or damage thereto would be useful to a foreign power;
- (j) The expression "sketch" includes any mode of representing any place or thing; "sketch".
- (k) The expression "senior police officer" means any officer of the Royal Canadian Mounted Police not below the rank of Inspector; any officer of any provincial police force of a like or superior rank; the Chief constable of any city or town with a population of not less than ten thousand; or any person upon whom the powers of a senior police officer are for the purposes of this Act conferred by the Governor in Council. "senior police officer".

3. (1) If any person for any purpose prejudicial to the safety or interests of the State, Spying.

- (a) approaches, inspects, passes over, or is in the neighbourhood of, or enters any prohibited place; or
- (b) makes any sketch, plan, model or note which is calculated to be or might be or is intended to be directly or indirectly useful to a foreign power; or

- (c) obtains, collects, records, or publishes, or communicates to any other person any secret official code word, or pass word, or any sketch, plan, model, article, or note, or other document or information which is calculated to be or might be or is intended to be directly or indirectly useful to a foreign power;

he shall be guilty of an offence under this Act.

Accused person may be convicted if purpose prejudicial to the safety of the State.

(2) On a prosecution under this section, it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the State, and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case, or his conduct, or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State; and if any sketch, plan, model, article, note, document or information relating to or used in any prohibited place, or anything in such a place, or any secret official code word or pass word is made, obtained, collected, recorded, published or communicated by any person other than a person acting under lawful authority, it shall be deemed to have been made, obtained, collected, recorded, published or communicated for a purpose prejudicial to the safety or interests of the State unless the contrary is proved.

Communication with agent of foreign power, etc. sufficient evidence.

(3) In any proceedings against a person for an offence under this section, the fact that he has been in communication with, or attempted to communicate with, an agent of a foreign power, whether within or without Canada, shall be evidence that he has, for a purpose prejudicial to the safety or interests of the State, obtained or attempted to obtain information which is calculated to be or might be or is intended to be directly or indirectly useful to a foreign power.

When person deemed to have been in communication with agent of a foreign power.

(4) For the purpose of this section, but without prejudice to the generality of the foregoing provision—

(a) a person shall, unless he proves the contrary, be deemed to have been in communication with an agent of a foreign power if—

- (i) he has, either within or without Canada, visited the address of an agent of a foreign power or consorted or associated with such agent; or
- (ii) either within or without Canada, the name or address of, or any other information regarding such an agent has been found in his possession, or has been supplied by him to any other person, or has been obtained by him from any other person;

"an agent of a foreign power" defined.

(b) the expression "an agent of a foreign power" includes any person who is or has been or is reasonably suspected of being or having been employed by a foreign power either directly or indirectly for the purpose of committing an act, either within or without Canada, prejudicial to the safety or interests of the State, or who has or is reasonably suspected of having, either within or without Canada, committed, or attempted to commit, such an act in the interests of a foreign power;

- (c) any address, whether within or without Canada, reasonably suspected of being an address used for the receipt of communications intended for an agent of a foreign power, or any address at which such an agent resides, or to which he resorts for the purpose of giving or receiving communications, or at which he carries on any business, shall be deemed to be the address of an agent of a foreign power, and communications addressed to such an address to be communications with such an agent.

When address deemed that of an agent of a foreign power.

4. (1) If any person having in his possession or control any secret official code word, or pass word, or any sketch, plan, model, article, note, document or information which relates to or is used in a prohibited place or anything in such a place, or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person holding office under His Majesty or which he has obtained or to which he has had access owing to his position as a person who holds or has held office under His Majesty, or as a person who holds or has held a contract made on behalf of His Majesty, or a contract the performance of which in whole or in part is carried out in a prohibited place, or as a person who is or has been employed under a person who holds or has held such an office or contract,—

Wrongful communication, etc. of information.

- (a) communicates the code word, pass work, sketch, plan, model, article, note, document or information to any person, other than a person to whom he is authorized to communicate with, or a person to whom it is in the interest of the State his duty to communicate it; or
- (b) uses the information in his possession for the benefit of any foreign power or in any other manner prejudicial to the safety or interests of the State; or
- (c) retains the sketch, plan, model, article, note, or document in his possession or control when he has no right to retain it or when it is contrary to his duty to retain it or fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof; or
- (d) fails to take reasonable care of, or so conducts himself as to endanger the safety of the sketch, plan, model, article, note, document, secret official code word or pass word or information;

that person shall be guilty of an offence under this Act.

(2) If any person having in his possession or control any sketch, plan, model, article, note, document or information which relates to munitions of war, communicates it directly or indirectly to any foreign power, or in any other manner prejudicial to the safety or interests of the State, that person shall be guilty of an offence under this Act.

Communication of sketch, plan, model, etc.

Receiving
code word,
sketch, etc.

(3) If any person receives any secret official code word, or pass word, or sketch, plan, model, article, note, document or information, knowing, or having reasonable ground to believe, at the time when he receives it, that the code word, pass word, sketch, plan, model, article, note, document or information is communicated to him in contravention of this Act, he shall be guilty of an offence under this Act, unless he proves that the communication to him of the code word, pass word, sketch, plan, model, article, note, document or information was contrary to his desire.

(4) If any person,—

Retaining
official
document,
etc.

(a) retains for any purpose prejudicial to the safety or interests of the State any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his duty to retain it, or fails to comply with any directions issued by any Government department or any person authorized by such department with regard to the return or disposal thereof; or

Allowing
other
to have
possession.

(b) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code word or pass word so issued, or, without lawful authority or excuse, has in his possession any official document or secret official code word or pass word issued for the use of some person other than himself, or on obtaining possession of any official document by finding or otherwise, neglects or fails to restore it to the person or authority by whom or for whose use it was issued, or to a police constable;

he shall be guilty of an offence under this Act.

Unauthorized
use of
uniforms;
falsification
of reports,
forgery,
personation
and false
documents.

5. (1) If any person for the purpose of gaining admission, or of assisting any other person to gain admission, to a prohibited place, or for any other purpose prejudicial to the safety or interests of the State,—

(a) uses or wears, without lawful authority, any naval military, air force, police or other official uniform or any uniform so nearly resembling the same as to be calculated to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear any such uniform; or

(b) orally, or in writing in any declaration or application, or in any document signed by him or on his behalf, knowingly makes or connives at the making of any false statement or any omission; or

(c) forges, alters, or tampers with any passport or any naval, military, air force, police or official pass, permit, certificate, licence or other document of a similar character, (hereinafter in this section referred to as an official document), or uses or has in his possession any such forged, altered, or irregular official document; or

(d) personates, or falsely represents himself to be a person holding, or in the employment of a person holding, office under His Majesty, or to be or not to be a person to whom an official document or secret official code word or pass word has been duly issued or communicated, or with intent to obtain an official document, secret official code word or pass word, whether for himself or any other person, knowingly makes any false statement; or

(e) uses, or has in his possession or under his control, without the authority of the Government department or the authority concerned, any die, seal, or stamp of or belonging to, or used, made, or provided by any Government department, or by any diplomatic, naval, military, or air force authority appointed by or acting under the authority of His Majesty, or any die, seal or stamp, so nearly resembling any such die, seal or stamp as to be calculated to deceive, or counterfeits any such die, seal or stamp, or uses, or has in his possession, or under his control, any such counterfeited die, seal or stamp;

he shall be guilty of an offence under this Act.

(2) If any person without lawful authority or excuse, manufactures or sells, or has in his possession for sale any such die, seal or stamp as aforesaid, he shall be guilty of an offence under this Act.

Unlawful dealing with dies, seals, etc.

6. No person in the vicinity of any prohibited place shall obstruct, knowingly mislead or otherwise interfere with or impede any constable or police officer, or any member of His Majesty's forces engaged on guard, sentry, patrol, or other similar duty in relation to the prohibited place, and, if any person acts in contravention of, or fails to comply with, this provision, he shall be guilty of an offence under this Act.

Interfering with officers of the police or members of His Majesty's forces.

7. (1) Where it appears to the Minister of Justice that such a course is expedient in the public interest, he may, by warrant under his hand, require any person who owns or controls any telegraphic cable or wire, or any apparatus for wireless telegraphy, used for the sending or receipt of telegrams to or from any place out of Canada, to produce to him, or to any person named in the warrant, the originals and transcripts, either of all telegrams, or of telegrams of any specified class or description, or of telegrams sent from or addressed to any specified person or place, sent to or received from any place out of Canada by means of any such cable, wire, or apparatus and all other papers relating to any such telegram as aforesaid.

Power to require the production of telegrams.

(2) Any person who, on being required to produce any such original or transcript or paper as aforesaid, refuses or neglects to do so shall be guilty of an offence under this Act, and shall for each offence, be liable on summary conviction to imprisonment, with or without hard labour, for a term not exceeding three months, or to a fine not exceeding two hundred dollars, or to both such imprisonment and fine.

Refusing or neglecting to produce original, etc.

Penalty.

Harbouring
spies.

8. If any person knowingly harbours any person whom he knows, or has reasonable grounds for supposing, to be a person who is about to commit or who has committed an offence under this Act, or knowingly permits to meet or assemble in any premises in his occupation or under his control any such persons, or if any person having harboured any such person, or permitted to meet or assemble in any premises in his occupation or under his control any such persons, wilfully omits or refuses to disclose to a senior police officer any information which it is in his power to give in relation to any such person, he shall be guilty of an offence under this Act.

Attempts,
incitements,
etc.

9. Any person who attempts to commit any offence under this Act, or solicits or incites or endeavours to persuade another person to commit an offence, or aids or abets and does any act preparatory to the commission of an offence under this Act, shall be guilty of an offence under this Act and shall be liable to the same punishment, and to be proceeded against in the same manner, as if he had committed the offence.

Power to
arrest
without
warrant.

10. Any person who is found committing an offence under this Act, or who is reasonably suspected of having committed, or having attempted to commit, or being about to commit, such an offence, may be arrested without a warrant and detained by any constable or police officer.

Search
warrants.

11. (1) If a justice of the peace is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Act has been or is about to be committed, he may grant a search warrant authorizing any constable named therein, to enter at any time any premises or place named in the warrant, if necessary by force, and to search the premises or place and every person found therein, and to seize any sketch, plan, model, article, note or document, or anything which is evidence of an offence under this Act having been or being about to be committed, which he may find on the premises or place or on any such person, and with regard to or in connection with which he has reasonable ground for suspecting that an offence under this Act has been or is about to be committed.

In case of
great
emergency.

(2) Where it appears to an officer of the Royal Canadian Mounted Police not below the rank of Superintendent that the case is one of great emergency and that in the interest of the State immediate action is necessary, he may by a written order under his hand give to any constable the like authority as may be given by the warrant of a justice under this section.

Prosecution
only with
consent of
Attorney
General.

12. A prosecution for an offence under this Act shall not be instituted except by or with the consent of the Attorney General: Provided that a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that the consent of the Attorney General to the institution of a prosecution for the offence has not been obtained, but no further or other proceedings shall be taken until that consent has been obtained.

13. (1) For the purposes of the trial of a person for an offence under this Act, the offence shall be deemed to have been committed either at the place in which the same actually was committed, or at any place in Canada in which the offender may be found.

Where offence deemed to have been committed.

(2) In addition and without prejudice to any powers which a court may possess to order the exclusion of the public from any proceedings if, in the course of proceedings before a court against any person for an offence under this Act or the proceedings on appeal, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings would be prejudicial to the interest of the State, that all or any portion of the public shall be excluded during any part of the hearing, the court may make an order to that effect, but the passing of sentence shall in any case take place in public.

Public may be excluded from trial.

(3) Where the person guilty of an offence under this Act is a company or corporation, every director and officer of the company or corporation shall be guilty of the like offence unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

If guilty person a company or corporation.

14. Where no specific penalty is provided in this Act, any person who is guilty of an offence under this Act shall be deemed to be guilty of an indictable offence, and shall on conviction be punishable by fine not exceeding two thousand dollars, or by imprisonment for a term not exceeding seven years, with or without hard labour, or by both fine and imprisonment; but such person may, at the election of the Attorney General, be prosecuted summarily in the manner provided by Part XV of the *Criminal Code*, and if so prosecuted, shall be punishable by fine not exceeding five hundred dollars, or by imprisonment not exceeding twelve months, with or without hard labour, or by both fine and imprisonment.

Penalties.
General.
Indictable offence.

Summary conviction.
R.S., c. 36.

15. (1) The Act of the Parliament of the United Kingdom, chapter twenty-eight of the statutes of 1911 (1 and 2 George V) the short title of which is "Official Secrets Act, 1911", is repealed in so far as it is part of the law of Canada. ⁽²³⁰⁾

Repeal.

(2) Sections eighty-five and eighty-six of the *Criminal Code*, chapter thirty-six of the Revised Statutes of Canada, 1927, are repealed.

Sections 85 and 86 of Criminal Code repealed.

⁽²³⁰⁾ This subsection repeals the Official Secrets Act, 1911, in so far as it is part of the law of Canada. The power to do so is conferred by section two of the Statute of Westminster. See Note ⁽²²⁹⁾.

THE SEALS ACT, 1939.

3 GEORGE VI, CHAPTER 22.

An Act to make provision for the Sealing of Royal Instruments.⁽²³¹⁾

[Assented to 2nd May, 1939.]

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Short title.

1. This Act may be cited as *The Seals Act, 1939*.

Definitions.

2. In this Act, and in any regulation or order made hereunder, unless the context otherwise requires:—

“Great Seal of the Realm.”

(a) “Great Seal of the Realm” means the Great Seal of the United Kingdom of Great Britain and Northern Ireland for which provision was made in Article XXIV of The Union with Scotland Act, 1706 (6 Anne, A.D. 1706, chapter XI, An Act for an Union of the Two Kingdoms of England and Scotland) and includes the wafer seal;

⁽²³¹⁾ The purpose of The Seals Act, 1939 was to deal with two separate problems. The first was temporary and was a result of the prospective visit of His Majesty the King. It became necessary to make provision for the performance of the Royal functions in relation to the government of Canada during the period of the King's absence from the United Kingdom and presence in Canada. For the most part, these Royal functions could be performed notwithstanding the King's absence from the United Kingdom and presence in this country. There were, however, exceptional functions, particularly those which required the use of the Great Seal of the Realm and the Signets. During His Majesty's presence in Canada, under existing laws and practice, it would not have been possible to issue Royal Instruments under the Great Seal or the Signet. The Act made provision for passing such instruments under the Great Seal of Canada.

The second problem was to make permanent provision for Canadian Royal Seals for use in Canadian matters. At the passing of the Act the following transaction required instruments under the Great Seal or Signets.

The following Royal Instruments, relating to Canadian matters, were passed under the Great Seal:—

- Full Powers (authorizing the signature of Treaties and Conventions);
- Instruments of Ratification (of Treaties and Conventions);
- Letters Patent constituting the office of Governor General.

The following Royal Instruments relating to Canadian matters were issued under the Sign Manual and Signet:—

- Warrants authorizing the issuing of Instruments under the Great Seal;
- Commission appointing the Governor General;
- Instructions to the Governor General;
- Exequaturs;
- Appointment of Lieutenant-Governor of Canada or of an Administrator;
- Formal granting of leave of absence to the Governor General;
- Appointment of certain officers of the Public Service of Canada.

Both the Great Seal and the Signets are in the custody of certain of His Majesty's Ministers in the United Kingdom, and the procedure governing their use is largely based upon statutes of the United Kingdom. There is conventional recognition of the obligation of such Ministers, in Canadian matters, to use the seals, which are in their custody, in accordance with the request of the responsible Canadian Ministers. This conventional recognition finds its expression in the modern practice with regard to countersignature. In drafting Royal Instruments, in Canadian matters, it is made clear, either by recitals or by provision for countersignature, that the responsibility for the instrument is imposed upon a Canadian Minister. The Act was designed to enable Canadian transactions, involving the use of Royal Seals, to be subjected, in form as well as in substance, to the direct control of responsible Canadian Ministers.

- (b) "Signet" means the seal which, under the existing practice in the United Kingdom of Great Britain and Northern Ireland, is delivered by His Majesty the King to each of his Principal Secretaries of State in the United Kingdom, and includes the lesser signet, or second secretarial seal and the cachet; "Signet".
- (c) "Royal Instrument" means an instrument, in respect of Canada, that, under the present practice, is issued by and in the name of the King and passed under the Great Seal of the Realm or under one of the Signets; "Royal Instrument".
(²³²)
- (d) "Document under the Sign Manual" means an instrument, in respect of Canada, that, under the present practice, is issued in the name and under the signature of His Majesty the King, without any seal; "Documents under the Sign Manual".
- (e) "Countersignature" refers to the endorsement upon a royal instrument or upon a document under the Sign Manual of the signature of His Majesty's responsible Canadian Minister; "Countersignature".
- (f) "Royal Seals" include the Great Seal of Canada and any other seals or signets that may, with the approval of His Majesty the King, be authorized under the provisions of this Act. "Royal Seals".

3. Notwithstanding the provisions of any law in force in Canada, any royal instrument may be issued by and with the authority of His Majesty the King and passed under the Great Seal of Canada, or under any other Royal Seal approved by His Majesty the King for the purpose.⁽²³³⁾ Issue of royal instruments.

4. (1) Notwithstanding the provisions of any law in force in Canada, the Governor in Council may, subject to the approval of His Majesty the King, make orders and regulations relating to royal seals, the use thereof, royal instruments, and documents under the Sign Manual, and without restricting the generality of the foregoing, in relation to the following matters:— Orders and regulations.

(a) The specification of the instruments or classes of instruments which are to be passed under the royal seals;

(b) The authorization of royal seals and the naming of such seals, and the specification of the purposes for which they are to be used;

⁽²³²⁾ (a), (b), (c) The purpose of these three definitions is to give precision to the term "Royal Instrument" so as to make it clear that "Royal Instrument" covers all of the sealed documents relating to the government of Canada, that were up to the passing of the Act issued by the King (and not by the Governor General) under any of the existing Royal seals.

As to the definition contained in paragraph (d) documents under the Sign Manual, strictly speaking, did not require legislative action. When provision was made for procedure governing the issuing of Royal Instruments, it was convenient to bring documents under the Sign Manual within its scope. (See Part VI of this volume Letters Patent constituting the Office of Governor General of Canada).

The only important Canadian instruments under the Sign Manual were Letters of Credence to Ministers Plenipotentiary.

⁽²³³⁾ This is the operative provision of the Act. It may be observed that it is enabling, in form, and does not interfere with existing procedure. Royal Instruments will continue to be valid, if issued under the Great Seal of the Realm, or the Signet. This section merely gives legal validity, in point of form, to transactions taking the form of written documents, issued in the name of the King, under either the Great Seal of Canada, or any other Royal Seal established under the next section of the Act.

- (c) The custody of the royal seals;
- (d) The procedure governing the use of the royal seals;
- (e) Countersignature of royal instruments;
- (f) The issuing and countersignature of documents under the Sign Manual;
- (g) The procedure whereby the approval of His Majesty the King and his authority for the issuing of royal instruments and documents under the Sign Manual is to be given;
- (h) The authentication and proof of royal instruments and documents under the Sign Manual, including the conditions under which certification by an official, or publication by the King's Printer, shall constitute authentication and proof.

Publication.

(2) All orders and regulations made under the authority of this section shall be published in the *Canada Gazette*.⁽²³⁴⁾

⁽²³⁴⁾ The first subsection gives to the Governor in Council the power, with the approval of the King, to make regulations governing the Royal Seals, Royal Instruments and documents under the Sign Manual, the procedure in such matters, and the authentication and proof of Royal Instruments.

It may be observed that, under the existing law, these matters are a part of the Royal Prerogative and can, for the most part, be dealt with without statutory authority. The effect of this provision is to impose a restriction upon the exercise of an existing prerogative power which, hereafter, can only be exercised by the Governor in Council with the approval of His Majesty the King. Further, the second subsection imposes the statutory obligation of publication in the *Canada Gazette*.

The Great Seal of Canada.

The actual Great Seal of Canada is the fourth since Confederation. Upon the death of a reigning Sovereign, a new seal is made, bearing the figure and name of the succeeding Sovereign. The last one authorized by Royal Warrant by His Majesty King George VI in 1939 bears the figure of the King, robed and crowned and seated upon His Throne, with orb and sceptre, with the Arms of Canada and the inscription: GEORGIUS, VI, D.G., Mag. Brit. Hib. Et. Terr. Transmar. Quae. In. Dit. Sunt. Brit. Rex. F.D. Ind. Imp.

Each time after the seal has been used it is locked in its box and placed in a special compartment in a vault in the office of the Under-Secretary of State of Canada. It was used for the first time on Tuesday, January 25, 1940 when Honourable Ernest Lapointe, Acting Secretary of State of Canada, assisted by Dr. E. H. Coleman, Under Secretary of State, impressed the parchment, appointing Dr. Henry Laureys, Montreal, High Commissioner for Canada to the Union of South Africa.

PART VI

LETTERS PATENT

CONSTITUTING THE OFFICE OF
GOVERNOR GENERAL OF CANADA

EFFECTIVE OCTOBER 1, 1947

WITH APPENDICES
REPRODUCING DOCUMENTS RELATING
TO THE OFFICE OF GOVERNOR
GENERAL OF CANADA IN EFFECT
PRIOR TO OCTOBER 1, 1947.

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LETTERS PATENT CONSTITUTING THE
OFFICE OF GOVERNOR GENERAL
OF CANADA.⁽²³⁵⁾

Effective Oct. 1, 1947.

“GEORGE R.”

CANADA

GEORGE THE SIXTH, by the Grace of God, of Great Britain,
Ireland and the British Dominions beyond the Seas
KING, Defender of the Faith.

[SEAL]

To all to whom these Presents shall come,

GREETING:

Whereas by certain Letters Patent under the Great Seal bearing date at Westminster the Twenty-third day of March, 1931, His late Majesty King George the Fifth did constitute, order, and declare that there should be a Governor General and Commander-in-Chief in and over Canada, and that the person filling the office of Governor General and Commander-in-Chief should be from time to time appointed by Commission under the Royal Sign Manual and Signet:

Preamble
Recites
Letters
Patent of
23rd March,
1931.

And whereas at St. James's on the Twenty-third day of March, 1931, His late Majesty King George the Fifth did cause certain Instructions under the Royal Sign Manual and Signet to be given to the Governor General and Commander-in-Chief:

And whereas it is Our Will and pleasure to revoke the Letters Patent and Instructions and to substitute other provisions in place thereof:

Now therefore we do by these presents revoke and determine the said Letters Patent, and everything therein contained, and all amendments thereto, and the said Instructions, but without prejudice to anything lawfully done thereunder:

Revokes
Letters
Patent of
23rd March,
1931, and
Instructions.

⁽²³⁵⁾ The Governor General: The legislative and the executive powers, passed from the hands of the governor to the Assembly and to the Cabinet, respectively, by the creation of a Legislative Assembly in Nova Scotia in 1758 and by the creation in Canada of the Constitutional régime of 1791. There still remained however the right of disallowance and reservation and also the right of dissolving Parliament.

The powers and jurisdiction of the governor and the instruments creating or confirming them have greatly changed since 1867. For each governor these powers were enumerated in his own commission and in the instructions which he received at the time of his appointment. (It will be noticed in the above Letters Patent that the Instructions are now deleted, whatever is left of them being included in the Letters Patent.)

Previously the appointment was made by the Imperial government, that is to say, by the King upon the advice of the Colonial Secretary. The British government did not then admit in the instructions given to the first governors that the latter should be, as the king whom they represented, in the position of a constitutional sovereign, in other words, obliged to act upon the advice of their ministers. It was only in 1848 that the Canadian Government was to have responsible government with all its implications.

And we do declare Our Will and pleasure as follows:

Office of
Governor
General and
Commander-
in-Chief
constituted.

I. We do hereby constitute, order, and declare that there shall be a Governor General and Commander-in-Chief in and over Canada, and appointments to the Office of Governor General and Commander-in-Chief in and over Canada shall be made by Commission under Our Great Seal of Canada.

His
powers
and
authorities.

II. And We do hereby authorize and empower Our Governor General, with the advice of Our Privy Council for Canada or of any members thereof or individually, as the case requires, to exercise all powers and authorities lawfully belonging to Us in respect of Canada, and for greater certainty but not so as to restrict the generality of the foregoing to do and execute, in the manner aforesaid, all things that may belong to his office and to the trust We have reposed in him according to the several powers and authorities granted or appointed him by virtue of The British North America Acts, 1867 to 1946 and the powers and authorities hereinafter conferred in these Letters Patent and in such Commission as may be issued to him under Our Great Seal of Canada and under such laws as are or may hereinafter be in force in Canada.

Great Seal.

III. And We do hereby authorize and empower Our Governor General to keep and use Our Great Seal of Canada for sealing all things whatsoever that may be passed under Our Great Seal of Canada.

Appointment
of Judges,
Justices, etc.

IV. And We do further authorize and empower Our Governor General to constitute and appoint, in Our name and on Our behalf, all such Judges, Commissioners, Justices of the Peace, and other necessary Officers (including diplomatic and consular officers) and Ministers of Canada, as may be lawfully constituted or appointed by Us.

Suspension
or removal
from Office.

V. And We do further authorize and empower Our Governor General, so far as We lawfully may, upon sufficient cause to him appearing, to remove from his office, or to suspend from the exercise of the same, any person exercising any office within Canada, under or by virtue of any Commission or Warrant granted, or which may be granted, by Us in Our name or under Our authority.

Summoning,
proroguing,
or dissolving
the
Parliament
of Canada.

VI. And We do further authorize and empower Our Governor General to exercise all powers lawfully belonging to Us in respect of summoning, proroguing or dissolving the Parliament of Canada.

By virtue of section 55 of the British North America Act the Governor General could withhold Royal Assent to Bills or reserve them for the signification of Royal Pleasure.

Before 1878, the Instructions to the governor were that he should reserve his assent to certain bills. This right of reservation did not permit the governor to refuse his sanction to an act, but allowed him to reserve it for the signification of the King's pleasure. Pursuant to instructions received before 1878, the governors had up to that time reserved twenty-one bills. After that date, the practice of enumerating the acts to be reserved was discontinued and, in 1879, the first bill of divorce received royal assent ("bills relating to divorce" was one of the enumerated classes). The right of disallowance or of reservation had not however been abandoned but a compromise had been reached. In these cases where the jurisdiction of Parliament was doubtful, a clause was inserted in the bill to the effect that the Act would come into force only upon proclamation of the Governor General. This suspending clause allowed negotiations with the Imperial government and if necessary—as in the case of the Copyright Act of 1889—the proclamation was not issued.

VII. And whereas by The British North America Acts, 1867 to 1946, it is amongst other things enacted that it shall be lawful for Us, if We think fit, to authorize Our Governor General to appoint any person or persons, jointly or severally, to be his Deputy or Deputies within any part or parts of Canada, and in that capacity to exercise, during the pleasure of Our Governor General, such of the powers, authorities, and functions of Our Governor General as he may deem it necessary or expedient to assign to such Deputy or Deputies, subject to any limitations or directions from time to time expressed or given by Us: Now We do hereby authorize and empower Our Governor General, subject to such limitations and directions, to appoint any person or persons, jointly or severally, to be his Deputy or Deputies within any part or parts of Canada, and in that capacity to exercise, during his pleasure, such of his powers, functions, and authorities as he may deem it necessary or expedient to assign to him or them: Provided always, that the appointment of such a Deputy or Deputies shall not affect the exercise of any such power, authority or function by Our Governor General in person.

Power to
appoint
Deputies.

VIII. And We do hereby declare Our pleasure to be that, in the event of the death, incapacity, removal, or absence of Our Governor General out of Canada, all and every, the powers and authorities herein granted to him shall until Our further pleasure is signified therein, be vested in Our Chief Justice for the time being of Canada (hereinafter called Our Chief Justice) or, in the case of the death, incapacity, removal or absence out of Canada of Our Chief Justice, then in the Senior Judge for the time being of the Supreme Court of Canada, then residing in Canada and not being under incapacity; such Chief Justice or Senior Judge of the Supreme Court of Canada, while the said powers and authorities are vested in him, to be known as Our Administrator.

Succession.

Provided always, that the said Senior Judge shall act in the administration of the Government only if and when Our Chief Justice shall not be present within Canada and capable of administering the Government.

Provided further that no such powers or authorities shall vest in such Chief Justice, or other judge of the Supreme Court of Canada, until he shall have taken the Oaths appointed to be taken by Our Governor General.

Proviso.
Admini-
strator to
take oaths
of office
before
administer-
ing the
Government.

Provided further that whenever and so often as Our Governor General shall be temporarily absent from Canada, with Our permission, for a period not exceeding one month, then and

The Colonial Conference of 1887 resolved to study and define more exactly the position and the functions of the Governor General. It was then decided that the governor should occupy in this country a position which would correspond to that of the Queen in the United Kingdom, with this difference that the governor could at that time refuse to dissolve Parliament when asked to do so by the party in power if he could find a ministry strong enough to replace the one which had been dismissed; also it was the duty of the governor to finally decide whether or not he was to pardon those condemned to death.

The most important part, however, played by the governor during that period was that of an intermediary between the British government and the colony. It is for this reason that in the case of conflicts between the British and Canadian governments the governor had to follow the instructions he received from England. If the conflict endured, that is, if the Colonial government refused to yield and could not be replaced, then the Colonial Secretary had to amend or withdraw his instructions.

in every such case Our Governor General may continue to exercise all and every the powers vested in him as fully as if he were residing within Canada, including the power to appoint a Deputy or Deputies as provided in the Eighth Clause of these Our Letters Patent.

Officers and others to obey and assist the Governor General.

IX. And We do hereby require and command all Our Officers and Ministers, Civil and Military, and all the other inhabitants of Canada, to be obedient, aiding, and assisting unto Our Governor General, or, in the event of his death, incapacity, or absence, to such person as may, from time to time, under the provisions of these Our Letters Patent administer the Government of Canada.

Publication of Governor General's Commission.

X. And We hereby declare Our Pleasure to be that Our Governor General for the time being shall with all due solemnity, cause Our Commission under Our Great Seal of Canada, appointing Our Governor General for the time being, to be read and published in the presence of Our Chief Justice, or other Judge of the Supreme Court of Canada, and of members of Our Privy Council for Canada, and that Our Governor General shall take the Oath of Allegiance in the form following:—

Oaths to be taken by Governor General, etc.

"I, do swear that I will be faithful and bear true allegiance to His Majesty King George the Sixth, His Heirs and successors, according to law. So Help me God"; and likewise he shall take the usual oath for the due execution of the Office of Our Governor General and Commander-in-Chief in and over Canada, and for the due and impartial administration of justice; which Oaths Our Chief Justice, or, in his absence, or in the event of his being otherwise incapacitated, any Judge of the Supreme Court of Canada shall, and he is hereby required to, tender and administer unto him.

Oaths to be administered by the Governor General.

XI. And We do authorize and require Our Governor General from time to time, by himself or by any other person to be authorized by him in that behalf, to administer to all and to every person or persons, as he shall think fit, who shall hold any office or place of trust or profit in Canada, that said Oath of Allegiance, together with such other Oath or Oaths as may from time to time be prescribed by any Laws or Statutes in that behalf made and provided.

Grant of Pardons.

XII. And We do further authorize and empower Our Governor General, as he shall see occasion, in Our name and on Our behalf, when any crime or offence against the laws of Canada has been committed for which the offender may be tried thereunder, to grant a pardon to any accomplice, in such crime or offence, who shall give such information as shall lead to the conviction of the principal offender, or of any one of such offenders if more than one; and further to grant to any offender

Since 1890, the colonies had been asked to approve of the choice made by the British government for the position of governor. Thirty years later, this procedure was to be reversed at the instance of the Irish Free State, and it was then the British government which ratified the choice of the new Dominion. Ten years later this procedure was officially adopted for all Dominions at the Conference of 1930.

The power of disallowance, not having been exercised since 1873, fell into disuse with respect to Canadian acts. The conference of 1930, agreeing with the conference of experts of 1929, recognized that the constitutional position was that the power of disallowance could no longer be exercised in relation to Dominion legislation.

convicted of any such crime or offence in any court, or before any Judge, Justice, or Magistrate, administering the laws of Canada, a pardon, either free or subject to lawful conditions, or any respite of the execution of the sentence of any such offender, for such period as to Our Governor General may seem fit, and to remit any fines, penalties, or forfeitures which may become due and payable to Us. And We do hereby direct and enjoin that Our Governor General shall not pardon or reprieve any such offender without first receiving in capital cases the advice of Our Privy Council for Canada and, in other cases, the advice of one at least, of his Ministers.

XIII. And We do further authorize and empower Our Governor General to issue Exequaturs, in Our name and on Our behalf, to Consular Officers of foreign countries to whom Commissions of Appointment have been issued by the Heads of States of such countries.

Power to
issue
Exequaturs.

XIV. And whereas great prejudice may happen to Our Service and to the security of Canada by the absence of Our Governor General, he shall not quit Canada without having first obtained leave from Us for so doing through the Prime Minister of Canada.

Governor
General's
absence.

XV. And We do hereby reserve to Ourselves, Our heirs and successors, full power and authority from time to time to revoke, alter, or amend these Our Letters Patent as to Us or them shall seem meet.

Power
reserved
to His
Majesty
to revoke,
alter or
amend the
present
Letters
Patent.

XVI. And We do further direct and enjoin that these Our Letters Patent shall be read and proclaimed at such place or places within Canada as Our Governor General shall think fit.

Publication
of Letters
Patent.

XVII. And We do further declare that these Our Letters Patent shall take effect on the first day of October, 1947.

Coming
into effect
of Letters
Patent.

IN WITNESS WHEREOF We have caused these Our Letters to be made Patent, and for the greater testimony and validity thereof, We have caused Our Great Seal of Canada to be affixed to these presents, which We have signed with Our Royal Hand.

GIVEN the eighth day of September in the Year of Our Lord One Thousand Nine Hundred and Forty-Seven and in the Eleventh Year of Our Reign.

BY HIS MAJESTY'S COMMAND,

“W. L. MACKENZIE KING”.

Prime Minister of Canada.

(Notes continued on page 432).

APPENDICES

DOCUMENTS RELATING TO THE OFFICE OF GOVERNOR GENERAL OF CANADA.

In Effect Prior to October 1, 1947

CANADA

A. LETTERS PATENT DATED MARCH 23, 1931.

LETTERS PATENT passed under the Great Seal of the Realm, constituting the Office of the Governor General and Commander-in-Chief of the Dominion of Canada.

Dated: 23rd March, 1931.

GEORGE THE FIFTH, by the Grace of God, of Great Britain, Ireland and the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India; To all to whom these Presents shall come, GREETING:

Preamble.

Recites
Letters
Patent of
15th June,
1905.

Whereas by certain Letters Patent under the Great Seal bearing date at Westminster the Fifteenth day of June, 1905, His Late Majesty King Edward the Seventh did constitute, order, and declare that there should be a Governor General in and over Our Dominion of Canada, and that the person filling the said office of Governor General should be from time to time appointed by Commission under the Royal Sign Manual and Signet:

And whereas it is Our Will and pleasure to revoke the said Letters Patent, and to substitute other provisions in place thereof:

Revokes
Letters
Patent of
15th June,
1905.

Now therefore We do by these presents revoke and determine the said recited Letters Patent, and everything therein contained, but without prejudice to anything lawfully done thereunder:

And We do declare Our Will and pleasure as follows:

Office of
Governor
General and
Commander-
in-Chief
constituted.

I. We do hereby Constitute, order, and declare that there shall be a Governor General and Commander-in-Chief in and over Our Dominion of Canada (hereinafter called Our said Dominion), and appointments to the said office shall be made by Commission under Our Sign Manual and Signet.

As to the power of reservation it was agreed at the same time that the attainment of the purposes of reservation could not be sought by the use of powers by the government of the United Kingdom and that it is the right of the Government of each Dominion to advise the Crown in all matters relating to its own affairs. In other words, if a bill is to be reserved in Canada by the Governor General it must be upon the advice of the Canadian ministry, and if it is afterwards to be proclaimed, it must again be on the advice of the Canadian Government.

The right which the governor had either to accept or refuse the advice of his ministers as to dissolving Parliament, a right which was so much discussed during the political crisis of 1926, has, in consequence of the decision of the Canadian people at that time, now disappeared and it seems impossible that a governor should refuse to-day to grant a dissolution to the party in power since he is now, as has been declared by the conference of 1926, "in the same position in relation to the administration of public affairs in the Dominions, as is held by His Majesty the King in Great Britain". In England, as is admitted, the King must follow the advice of his ministers. The Governor General therefore must follow the advice of the ministers of the Dominion of which he is the governor. (For a contrary opinion *vide* "*The Royal Power of Dissolution of Parliament in the British Commonwealth*", by Eugene A. Forsey, M.A., Ph.D.)

And We do hereby authorize and command Our said Governor General and Commander-in-Chief (hereinafter called Our said Governor General) to do and execute, in due manner, all things that shall belong to his said office, and to the trust We have reposed in him, according to the several powers and authorities granted or appointed him by virtue of "The British North America Act, 1867," and of these present Letters Patent and of such Commission as may be issued to him under Our Sign Manual and Signet, and according to such Instructions as may from time to time be given to him under Our Sign Manual and Signet and to such Laws as are or shall hereafter be in force in Our said Dominion.

His powers
and
authorities.

LETTERS PATENT constituting
the Office of Governor-General and
Commander-in-Chief of the
DOMINION OF CANADA.

II. And We do hereby authorize and empower Our said Governor General to keep and use the Great Seal of Our said Dominion for sealing all things whatsoever that shall pass the said Great Seal.

Great Seal.

III. And We do further authorize and empower Our said Governor General to constitute and appoint, in Our Name and on Our behalf, all such Judges, Commissioners, Justices of the Peace, and other necessary Officers and Ministers of Our said Dominion, as may be lawfully constituted or appointed by Us.

Appoint-
ment of
Judges,
Justices,
etc.

IV. And We do further authorize and empower Our said Governor General, so far as We lawfully may, upon sufficient cause to him appearing, to remove from his office, or to suspend from the exercise of the same, any person exercising any office within Our said Dominion, under or by virtue of any Commission or Warrant granted, or which may be granted, by Us in Our name or under Our authority.

Suspension
or removal
from office.

V. And We do further authorize and empower Our said Governor General to exercise all powers lawfully belonging to Us in respect of the summoning, proroguing, or dissolving the Parliament of Our said Dominion.

Summoning,
proroguing,
or dissolving
the
Dominion
Parliament.

VI. And whereas by "The British North America Act, 1867," is amongst other things enacted that it shall be lawful for Us, if We think fit, to authorize the Governor General of

Power to
appoint
Deputies.

The report of the conference of 1926 states that the Governor General of a Dominion is neither "the representative or agent of His Majesty's government in Great Britain or of any department of that government."

The Conference of 1930 took special care to define the position of Governors General and arrived at certain conclusions which have been summarized by the late Mr. Justice Mignault as follows: "The Governor General is the King's personal representative and not the agent of His Majesty's government in Great Britain. At the time of his appointment, the government of the Dominion selects its own candidate whom constitutionally the King must accept. It is only a case of the application of the doctrine of ministerial responsibility. The result is that the governor so chosen will exercise the executive power upon the advice of his responsible ministers, but naturally in the name of the King. The government of Great Britain does not intervene in any way."

Therefore, the Governor General has ceased to be the agent of the government of the United Kingdom and to take the advice of the Secretary of State for the Dominion. It will be noted that the new Letters Patent came into force on October 1, 1947, that they supersede as from that date the Letters Patent of 1931 (as amended in 1935) and the Royal Instructions of 1931.

Our Dominion of Canada to appoint any person or persons, jointly or severally, to be his Deputy or Deputies within any part or parts of Our said Dominion, and in that capacity to exercise, during the pleasure of Our said Governor General, such of the powers, authorities, and functions of Our said Governor General as he may deem it necessary or expedient to assign to such Deputy or Deputies, subject to any limitations or directions from time to time expressed or given by Us: Now We do hereby authorize and empower Our said Governor General, subject to such limitations and directions as aforesaid, to appoint any person or persons, jointly or severally, to be his Deputy or Deputies within any part or parts of Our said Dominion of Canada, and in that capacity to exercise, during his pleasure, such of his powers, functions, and authorities, as he may deem it necessary or expedient to assign to him or them: Provided always, that the appointment of such a Deputy or Deputies shall not affect the exercise of any such powers, authority or function by Our said Governor General in person.

Succession
to the
Government.

VII. And We do hereby declare Our pleasure to be that, in the event of the death, incapacity, removal, or absence of Our said Governor General out of Our said Dominion, all and every the powers and authorities herein granted to him shall, until Our further pleasure is signified therein, be vested in such person as may be appointed by Us under Our Sign Manual and Signet to be Our Lieutenant-Governor of Our said Dominion; or if there shall be no such Lieutenant-Governor in Our said Dominion, then in such person or persons as may be appointed by Us under Our Sign Manual and Signet to administer the Government of the same; and in case there shall be no person or persons within Our said Dominion so appointed by Us, then in Our Chief Justice for the time being of the Supreme Court of Our said Dominion, or, in case of the death, incapacity, removal, or absence out of Our said Dominion of Our said Chief Justice for the time being, then in the Senior Judge for the time being of Our said Supreme Court then residing in Our said Dominion and not being under incapacity.

The Royal documents relating to the office of the Governor General had not undergone a careful revision since 1931. The Canadian Government accordingly recommended to His Majesty the issuance of new Letters Patent consolidating the former documents and bringing them up to date.

The principal alterations may be summarized as follows:

- (a) The Commission shall now be under the Great Seal of Canada;
- (b) The Governor General is authorized to exercise on the advice of Canadian Ministers, all of His Majesty's powers and authorities in respect of Canada. (Certain matters will however continue to be submitted by the Canadian Government to the King personally). Among others it will be legally possible for the Governor General, on the advice of Canadian ministers, to exercise Royal Full Powers for the signing or ratification of treaties, and the issuance of Letters of Credence for Ambassadors, if desired.
- (c) The new Letters Patent revoke and supersede the existing Letters Patent and the existing Royal Instructions. The Instructions have been incorporated in the new Letters Patent which have been issued under the Great Seal of Canada.
- (d) The clause in the Instructions of 1931 to the effect that the Governor General was required to communicate Royal Instructions to the Privy Council of the Dominion has been omitted as being archaic and inconsistent with the present practice and constitutional position.

Provided always, that the Senior Judge shall act in the administration of the Government only if and when Our said Chief Justice shall not be present within Our said Dominion and capable of administering the Government.

Proviso.
Lieutenant-Governor, etc., to take oaths of office before administering the Government.

Provided further that no such powers or authorities shall vest in such Lieutenant-Governor, or such other person or persons, until he or they shall have taken the Oaths appointed to be taken by the Governor General of Our said Dominion, and in the manner provided by the Instructions accompanying these Our Letters Patent.

VIII. And We do hereby require and command all Our Officers and Ministers, Civil and Military, and all other the inhabitants of Our said Dominion to be obedient, aiding, and assisting unto Our said Governor General, or, in the event of his death, incapacity, or absence, to such person or persons as may, from time to time, under the provisions of these Our Letters Patent, administer the Government of Our said Dominion.

Officers and others to obey and assist the Governor General.

IX. And We do hereby reserve to Ourselves, Our heirs and successors, full power and authority from time to time to revoke, alter, or amend these Our Letters Patent as to Us or them shall seem meet.

Power reserved to His Majesty to revoke, alter, or amend the present Letters Patent. Publication of Letters Patent.

X. And We do further direct and enjoin that these Our Letters Patent shall be read and proclaimed at such place or places as Our said Governor General shall think fit within Our said Dominion of Canada.

IN WITNESS whereof We have caused these Our Letters to be made Patent. Witness Ourselves at Westminster the twenty-third day of March in the Twenty-first Year of Our Reign.

By Warrant under the King's Sign Manual.

“SCHUSTER.”

(e) Two new clauses have been incorporated in the Letters Patent empowering the Governor General to appoint Consuls and to issue exequaturs.
(f) A clause has been inserted to provide for the coming into force of the Letters Patent on the date of signature; and finally
(g) The superscription of the signature has been amended along the lines of the form used for the ratification of Heads of State treaties, to provide for the use of the Great Seal of Canada.
See *PROBLEMS OF CANADIAN SOVEREIGNTY* by Maurice Ollivier, Chapter III, “The Governor General” at pages 61 to 81. (Canada Law Book Company, Toronto.)

B. ROYAL INSTRUCTIONS DATED MARCH 23,
1931.

“GEORGE R.I.”

Instructions to Our Governor General and Commander-in-Chief in and over Our Dominion of Canada, or, in his absence, to Our Lieutenant-Governor or other Officer for the time being administering the Government of Our Said Dominion.

Given at Our Court at Saint James's, the Twenty-third day of March, 1931, in the Twenty-first year of Our Reign.

Preamble.
Recites
Letters
Patent
constituting
the Office of
Governor
General and
Commander-
in-Chief.

WHEREAS by certain Letters Patent bearing even date herewith We have constituted, ordered, and declared that there shall be a Governor General and Commander-in-Chief (hereinafter called Our said Governor General) in and over Our Dominion of Canada (hereinafter called our said Dominion), and We have thereby authorized and commanded Our said Governor General to do and execute in due manner all things that shall belong to his said office, and to the trust We have reposed in him, according to the several powers and authorities granted or appointed him by virtue of the said Letters Patent and of such Commission as may be issued to him under Our Sign Manual and Signet, and according to such Instructions as may from time to time be given to him under Our Sign Manual and Signet, and to such Laws as are or shall hereafter be in force in Our said Dominion: Now, therefore, We do, by these Our Instructions under Our Sign Manual and Signet, declare Our Pleasure to be as follows:—

Publication
of Governor
General's
Commission.

I. Our said Governor General for the time being shall, with all due solemnity, cause Our Commission under Our Sign Manual and Signet, appointing Our said Governor General for the time being, to be read and published in the presence of the Chief Justice for the time being, or other Judge of the Supreme Court of Our said Dominion, and of the members of the Privy Council in Our said Dominion.

Oaths to be
taken by
Governor
General,
etc.

Our said Governor General, and every other Officer appointed to administer the Government of Our said Dominion, shall take the Oath of Allegiance in the form following:—
“I,, do swear that I will be faithful and bear true allegiance to His Majesty King George, His heirs and successors, according to law, So Help me God;” and likewise he or they shall take the usual Oath for the due execution of the Office of Our Governor General and Commander-in-Chief in and over Our said Dominion, and for the due and impartial administration of justice; which Oaths the said Chief Justice for the time being of Our said Dominion, or, in his absence, or in the event of his being otherwise incapacitated, any Judge of the Supreme Court of Our said Dominion shall, and he is hereby required to, tender and administer unto him or them.

Oaths to be
admin-
istered
by the
Governor
General.

II. And We do authorize and require Our said Governor General from time to time, by himself or by any other person to be authorized by him in that behalf, to administer to all and to every person or persons, as he shall think fit, who shall hold

any office or place of trust or profit in Our said Dominion, the said Oath of Allegiance, together with such other Oath or Oaths as may from time to time be prescribed by any Laws or Statutes in that behalf made and provided.

INSTRUCTIONS to the

Governor General and Commander-in-Chief of the
DOMINION OF CANADA.

III. And We do require Our said Governor General to communicate forthwith to the Privy Council for Our said Dominion these Our Instructions, and likewise all such others, from time to time, as he shall find convenient for Our Service to be imparted to them.

Governor General to communicate Instructions to the Privy Council of the Dominion.

IV. Our said Governor General is to take care that all Laws assented to by him in Our name, or reserved for the signification of Our pleasure thereon, shall, when transmitted by him, be fairly abstracted in the margins, and be accompanied, in such cases as may seem to him necessary, with such explanatory observations as may be required to exhibit the reasons and occasions for proposing such Laws; and he shall also transmit fair copies of the Journals and Minutes of the proceedings of the Parliament of Our said Dominion, which he is to require from the clerks, or other proper officers in that behalf, of the said Parliament.

Laws sent home to have marginal abstracts.

Journals and Minutes.

V. And We do further authorize and empower Our said Governor General, as he shall see occasion, in Our Name and in Our behalf, when any crime or offence against the Laws of Our said Dominion has been committed for which the offender may be tried therein, to grant a pardon to any accomplice in such crime or offence, who shall give such information as shall lead to the conviction of the principal offender, or of any one of such offenders if more than one; and further, to grant to any offender convicted of any such crime or offence in any Court, or before any Judge, Justice, or Magistrate, within Our said Dominion, a pardon, either free or subject to lawful conditions, or any respite of the execution of the sentence of any such offender, for such period as to Our said Governor General may seem fit, and to remit any fines, penalties, or forfeitures which may become due and payable to Us. And We do hereby direct and enjoin that Our said Governor General shall not pardon or relieve any such offender without first receiving in capital cases the advice of the Privy Council for Our said Dominion, and in other cases the advice of one, at least, of his Ministers; and in any case in which such pardon or relieve might directly affect the interests of Our Empire, or of any country or place beyond the jurisdiction of Government of Our said Dominion, Our said Governor General shall, before deciding as to either pardon or relieve, take those interests specially into his own personal consideration in conjunction with such advice as aforesaid.

Grant of Pardons.

Remission of fines. Regulation of power of pardon.

VI. And whereas great prejudice may happen to Our Service and to the security of Our said Dominion by the absence of Our said Governor General, he shall not, upon any pretence whatever, quit Our said Dominion without having first obtained leave from Us for so doing under Our Sign Manual and Signet, or through the Prime Minister of Our said Dominion.

Governor General's absence.

C. LETTERS PATENT DATED SEPTEMBER 25,
1935.

Amending the Letters Patent Dated March 23, 1931.

GEORGE THE FIFTH, by the Grace of God, of Great Britain,
Ireland and the British Dominions beyond the Seas
King, Defender of the Faith, Emperor of India; To all
to whom these Presents shall come, GREETING:

Preamble.
Recites
Letters
Patent of
23rd March,
1931.

Whereas by certain Letters Patent under the Great Seal
bearing date at Westminster the Twenty-third day of March,
1931, We did constitute, order, and declare that there should
be a Governor General in and over Our Dominion of Canada,
and that the person filling the said office of Governor General
should be from time to time appointed by Commission under
the Royal Sign Manual and Signet:

And whereas by the Seventh Clause of the said Letters
Patent provision was made for the administration of the Govern-
ment of the Dominion in certain events:

And whereas We are minded to make further provision for
the temporary absence of the Governor General from the
Dominion:

Now know ye that We do hereby declare Our Will and
Pleasure and direct and ordain as follows:—

Amends
Seventh
Clause of
Letters
Patent of
23rd March,
1931.

I. The following clause shall be added after the said Seventh
Clause:—

“VIIA. Whenever and so often as the Governor
General shall be temporarily absent from the Dominion,
with Our permission, for the purpose of visiting some
neighbouring State or territory, for a period not exceeding
one month, then and in every such case the Governor
General may continue to exercise all and every the powers
vested in him as fully as if he were residing within the
Dominion, including the power to appoint a Deputy or
Deputies as provided in the Sixth Clause of these Our
Letters Patent.”

Power
reserved
to His
Majesty
to revoke,
alter, or
amend the
present
Letters
Patent.

II. And We do hereby reserve to Ourselves, Our heirs and
successors, full power and authority from time to time to revoke,
alter, or amend these Our Letters Patent as to Us or them shall
seem meet.

Publica-
tion of
Letters
Patent.

III. And We do further direct and enjoin that these Our
Letters Patent shall be read and proclaimed at such place or
places as Our said Governor General shall think fit within Our
said Dominion of Canada.

In witness whereof We have caused these Our Letters to
be made Patent. Witness Ourself at Westminster, the Twenty-
fifth day of September, in the Twenty-sixth year of Our Reign.

By Warrant under the King's Sign Manual.

“SCHUSTER.”

LETTERS PATENT

amending the Letters Patent of the 23rd March, 1931,
constituting the Office of Governor General and
Commander-in-Chief of the
DOMINION OF CANADA.

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